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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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PART A.

CONSTITUTIONAL CONVENTION INITIATIVE.

Subpart 1. General.

§ 1-125. Statehood Commission.

(a) The Statehood Commission shall consist of 27 voting members appointed in the following manner:

(1) The Mayor of the District of Columbia shall appoint 2 members;

(2) The Chairman of the Council of the District of Columbia shall appoint 2 members;

(3) The at-large members of the Council shall each appoint 1 member;

(4) The ward members of the Council shall each appoint 2 members from their respective wards;

(5) The United States Senators shall each appoint 1 member;

(6) The United States Representative shall appoint 1 member; and

(7) The Mayor, the Chairman of the Council, and the Councilmember whose purview the Statehood Commission comes within shall be non-voting members of the Commission.

(a-1)(1) Notwithstanding any other provision of law, members serving unexpired terms on August 26, 1994, may continue to serve until appointments or reappointments are confirmed. Appointments or reappointments shall be made immediately after August 26, 1994, in the following manner:

(A) The Mayor shall appoint 1 member for a term of 4 years and 1 member for a term of 2 years.

(B) The Chairman shall appoint 1 member for a term of 4 years and 1 member for a term of 2 years.

(C) The 2 senior at-large members of the Council shall each appoint 1 member for a 4 year term.

(D) The 2 remaining at-large members of the Council shall each appoint 1 member for a 2 year term.

(E) The ward members of the Council shall each appoint 2 members from their respective wards in the following manner:

(i) One member for a 4 year term; and

(ii) One member for a 2 year term.

(F) The senior United States Senator shall appoint 1 member for a 4 year term.

(G) The junior United States Senator shall appoint 1 member for a 2 year term.

(H) The United States Representative shall appoint 1 member for a 2 year term.

(2) All appointments or reappointments pursuant to subsection (a) of this section shall be for a term of 4 years.

(3) A vacancy on the Commission shall be filled in the same manner that the original appointment was made.

(4) A member of the Commission may continue to serve after the expiration of that member's term until a successor is appointed.

(a-2) All members of the Statehood Commission shall be residents of the District of Columbia.

(a-3) The chairman of the Statehood Commission shall be elected every 2 years, by the members of the commission.

(b) It shall be the duty of the Statehood Commission to educate, advocate, promote, and advance the proposition of statehood for the District of Columbia within the District of Columbia and elsewhere.

(c) Repealed.

(d) The Commission shall meet at least once a month. All meetings of the Commission shall be open to the public.

(Mar. 10, 1981, D.C. Law 3-171, § 6, 27 DCR 4732; Oct. 8, 1981, D.C. Law 4-35, § 2(e), 28 DCR 3376; Aug. 26, 1994, D.C. Law 10-167, § 2(a), 41 DCR 4895; Sept. 26, 2012, D.C. Law 19-171, § 2, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated former (c-1) as (d).

§ 1-136.03. Applicability. [Not funded].

Emergency legislation. — For temporary (90 day) addition of sections, see §§ 1081 to 1089 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 1081 to 1089 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

PART E.

HOME RULE ACT 40TH ANNIVERSARY CELEBRATION AND COMMEMORATION.

§ 1-137.01. Definitions.

For the purposes of this part, the term:

(1) "Commission" means the Home Rule Act 40th Anniversary Celebration and Commemoration Commission established in § 1-137.02.

(2) "Fund" means the Home Rule 40th Anniversary Celebration and Commemoration Fund established in § 1-137.04.

(3) "Home Rule Act" means Chapter 2 of this title.

(Sept. 20, 2012, D.C. Law 19-168, § 1082, 59 DCR 8025.)

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 1-137.02. Home Rule Act 40th Anniversary Celebration and Commemoration Commission.

(a) There is established a Home Rule 40th Anniversary Celebration and Commemoration Commission. The purpose of the Commission shall be to coordinate, plan, and promote events related to the 40th anniversary of the adoption of the Home Rule Act, and to administer the Fund.

(b) The Commission shall be composed of 5 members, as follows:

(1) One Chairperson, appointed by the Mayor;

(2) Two members appointed by the Mayor; and

(3) Two members appointed by the Chairman of the Council.

(c) The members of the Commission shall serve until the sunset of this part.

(d) A vacancy in the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(e) Each member of the Commission shall serve without compensation; provided, that each member may be reimbursed for actual expenses pursuant to § 1-611.08.

(f) A majority of the members of the Commission shall constitute a quorum to conduct business.

(Sept. 20, 2012, D.C. Law 19-168, § 1083, 59 DCR 8025.)

Section references. — This section is referenced in § 1-137.01 and § 1-137.07.

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.03. Staffing.

(a) The Commission shall appoint staff as needed who shall be paid from the Fund.

(b) Upon request of the Commission, the Mayor may detail staff, at no cost to the Commission, at any time to assist the Commission in carrying out its duties.

(Sept. 20, 2012, D.C. Law 19-168, § 1084, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.04. Home Rule 40th Anniversary Celebration and Commemoration Fund.

(a) There is established as a nonlapsing fund the Home Rule Act 40th Anniversary Celebration and Commemoration Fund, which shall be adminis-

tered by the Commission, to be used for the purposes set forth in subsection (c) of this section.

(b)(1) Deposits into the Fund shall include:

(A) Federal funds, if any;

(B) Gifts, grants, and donations; and

(C) Proceeds from the sale of memorabilia and information related to the 40th anniversary of the adoption of the Home Rule Act.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Commission may expend monies in the Fund to celebrate and commemorate the 40th anniversary of the adoption of the Home Rule Act, including:

(1) Planning, developing, and executing appropriate programs and activities;

(2) Purchasing and selling merchandise related to the Home Rule Act, such as:

(A) Books;

(B) Pamphlets;

(C) Memorabilia; or

(D) Other material;

(3) Identifying appropriate displays and activities to showcase the history of home rule and the quest by residents and officials instrumental in the passage of the Home Rule Act to gain self-determination for the District of Columbia;

(4) Identifying possible amendments to the Home Rule Act;

(5) Outlining programs to involve the public in learning more about the Home Rule Act and self-determination in the District;

(6) Making grants available, subject to the availability of funds in the Fund, through a competitive process, for educational programs to public schools, public charter schools, and other organizations;

(7) Encouraging educational, historical, civic, and other organizations to participate in the anniversary activities to expand the understanding of the Home Rule Act and self-determination in the District;

(8) Assuring that the observances appropriately recognize former mayors and members of the Council, and other people, who have contributed to the growth and development of elected government in the District;

(9) Facilitating other activities, such as receptions, parades, or festivals, and the provision of food, snacks, entertainment, and non-alcoholic beverages to the general public participating in the activities; and

(10) Examining the Home Rule Act to determine the authority that shall be used to advance democracy for the District.

(Sept. 20, 2012, D.C. Law 19-168, § 1085, 59 DCR 8025.)

Section references. — This section is referenced in § 1-137.01.

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.05. Reporting requirement.

(a) Beginning on September 30, 2012, the Commission shall submit quarterly reports to the Mayor and the Council, to include:

(1) An accounting of the revenue and expenditures of the Commission, including a list of each:

(A) Gift, grant, or donation with a value of $100 or greater, and the name, address, and occupation of each donor; and

(B) Expenditure of $100 or greater, including the name and address of the recipient;

(2) A summary of the proposed activities programs; and

(3) Any recommendations for legislative or executive action.

(b) Not later than September 30, 2014, the Commission shall submit a final report to the Mayor and the Council that includes:

(1) A final accounting of the revenue and expenditures of the Commission, including a list of each gift, grant, or donation with a value of $100 or greater, and the name, address, and occupation of each donor;

(2) A summary of the Commission's activities; and

(3) Any recommendations for amendments to the Home Rule Act.

(Sept. 20, 2012, D.C. Law 19-168, § 1086, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.06. Implementation.

The Secretary of the District of Columbia shall be the implementing agency of the provisions of this part.

(Sept. 20, 2012, D.C. Law 19-168, § 1087, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.07. Use of District funds.

Except as provided in § 1-137.02(e), no local funds shall be used to carry out this part.

(Sept. 20, 2012, D.C. Law 19-168, § 1088, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-137.01.

§ 1-137.08. Sunset.

This part shall expire on October 1, 2014.

(Sept. 20, 2012, D.C. Law 19-168, § 1089, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-137.01.

Subchapter III. District of Columbia Flag.

PART B.

DISTRICT OF COLUMBIA FLAG ADOPTION AND DESIGN.

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§ 1-152. Inclusion of "DC" and "No Taxation Without Representation" within District of Columbia flag.

(a) After the design adopted under subsection (b) of this section becomes effective, the flag of the District of Columbia shall temporarily contain the language "DC" and "No Taxation Without Representation".

(b) The placement and design of the language prescribed in subsection (a) of this section shall be established by act of the Council.

(c) The flag adopted pursuant to § 1-151 and subsection (b) of this section shall be flown officially as of 90 days following the effective date of the act specified in subsection (b) of this section.

(d) The language prescribed in subsection (a) of this section shall be removed from the flag when District of Columbia registered voters are able to vote for 2 Senators and one Representative with full rights and privileges in the Congress of the United States.

(e) The language prescribed in subsection (a) of this section shall not be required in instances where a reproduction of the flag is placed as a symbol on motor vehicles, District of Columbia government letterhead, or other objects.

(f) Notwithstanding subsections (a) and (b) of this section, the District government and any person may officially display a District of Columbia flag that contains the language "DC" and "No Taxation Without Representation" on June 14 of each year, known as Flag Day, until a design is officially adopted by the Council pursuant to subsection (b) of this section.

(Mar. 25, 2003, D.C. Law 14-237, § 3, 49 DCR 10485; Mar. 19, 2013, D.C. Law 19-239, § 2, 59 DCR 14788.)

Section references. — This section is referenced in § 1-154 and § 1-172.

Effect of amendments. — The 2013 amendment by D.C. Law 19-239 added (f).

Legislative history of Law 19-239. — Law 19-239, the "District of Columbia Flag Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-277. The Bill was adopted on first and second readings on Nov. 1, 2012 and Nov. 15, 2012, respectively. Signed by the Mayor on Dec. 2, 2012, it was assigned Act No. 19-559 and transmitted to Congress for its review. D.C. Law 19-239 became effective on Mar. 19, 2013.

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LAW REVIEWS AND JOURNAL COMMENTARIES

District of Columbia Voting Rights Symposium. 48 Am.U.L.Rev. (1999).

Too Clever by Half: The Unconstitutionality of Partial Representation of the District of Columbia in Congress. Jonathan Turley, 76 Geo. Wash. L. Rev. 305 (2008).

Subchapter II. Governmental Reorganization.

§ 1-202.04. District of Columbia Manpower Administration.

(a) All functions of the Secretary of Labor (hereafter in this section referred to as the "Secretary") under § 3 of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933 (29 U.S.C. §§ 49-49k), with respect to the maintenance of a public employment service for the District, are transferred to the Mayor. After the effective date of this transfer, the Secretary shall maintain with the District the same relationship with respect to a public employment service in the District, including the financing of such service, as he has with the States (with respect to a public employment service in the states) generally.

(b) The Mayor is authorized and directed to establish and administer a public employment service in the District and to that end he shall have all necessary powers to cooperate with the Secretary in the same manner as a State under the Act of June 6, 1933, specified in subsection (a) of this section.

(c) [Omitted].

(d) All functions of the Secretary of Labor and of the Director of Apprenticeship under the Act entitled "An Act to provide for voluntary apprenticeship in the District of Columbia", approved May 20, 1946, 1933 (29 U.S.C. §§ 49-49k) are transferred to and shall be exercised by the Mayor. The Office of Director of Apprenticeship provided for in § 32-1403 is abolished.

(e) All functions of the Secretary under chapter 81 of title 5 of the United States Code, with respect to the processing of claims filed by employees of the government of the District for compensation for work injuries, are transferred to and shall be exercised by the Mayor, effective the day after the day on which the District establishes an independent personnel system or systems.

(f) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with functions transferred to the Mayor by the provisions of this section, as the Director of the Federal Office of Management and Budget shall determine, are authorized to be transferred from the Secretary to the Mayor.

(g) Any employee in the competitive service of the United States transferred to the government of the District under the provisions of this section shall

retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

(h) [Omitted].

(Dec. 24, 1973, 87 Stat. 779, Pub. L. 93-198, title II, § 204; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(1).)

Section references. — This section is referenced in § 1-601.01 and § 1-623.46.

Editor's notes.

This section is set out above to show a correction in the historical citation.

Subchapter IV. The District Charter.

PART A.

THE COUNCIL.

Subpart 1. Creation of the Council.

§ 1-204.01. Creation and membership.

(a) There is established a Council of the District of Columbia; and the members of the Council shall be elected by the registered qualified electors of the District.

(b)(1) The Council established under subsection (a) of this section shall consist of 13 members elected on a partisan basis. The Chairman and 4 members shall be elected at large in the District, and 8 members shall be elected 1 each from the 8 election wards established, from time to time, under Chapter 10 of this title. The term of office of the members of the Council shall be 4 years, except as provided in paragraph (3) of this subsection, and shall begin at noon on January 2nd of the year following their election.

(2) In the case of the first election held for the office of member of the Council after January 2, 1975, not more than 2 of the at-large members (excluding the Chairman) shall be nominated by the same political party. Thereafter, a political party may nominate a number of candidates for the office of at-large member of the Council equal to 1 less than the total number of at-large members (excluding the Chairman) to be elected in such election.

(3) To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation. The person elected Chairman to fill a vacancy in the Office of Chairman shall take office on the day in which the Board of Elections and Ethics certifies his election, and shall serve as Chairman only for

the remainder of the term during which such vacancy occurred. When the Office of Chairman becomes vacant, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as Chairman pro tempore until the election of a new Chairman.

(4) Of the members first elected after January 2, 1975, the Chairman and 2 members elected at large and 4 of the members elected from election wards shall serve for 4-year terms; and 2 of the at-large members and 4 of the members elected from election wards shall serve for 2-year terms. The members to serve the 4-year terms and the members to serve the 2-year terms shall be determined by the Board of Elections and Ethics by lot, except that not more than one of the at-large members nominated by any political party shall serve for any such 4-year term.

(c) The Council may establish and select such other officers and employees as it deems necessary and appropriate to carry out the functions of the Council.

(d)(1) In the event of a vacancy in the Council of a member elected from a ward, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation. The person elected as a member to fill a vacancy on the Council shall take office on the day on which the Board of Elections and Ethics certifies his election, and shall serve as a member of the Council only for the remainder of the term during which such vacancy occurred.

(2) In the event of a vacancy in the Office of Mayor, and if the Chairman becomes a candidate for the Office of Mayor to fill such vacancy, the Office of Chairman shall be deemed vacant as of the date of the filing of his candidacy. In the event of a vacancy in the Council of a member elected at large, other than a vacancy in the Office of Chairman, who is affiliated with a political party, the central committee of such political party shall appoint a person to fill such vacancy, until the Board of Elections and Ethics can hold a special election to fill such vacancy, and such special election shall be held on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation. The person appointed to fill such vacancy shall take office on the date of his appointment and shall serve as a member of the Council until the day on which the Board certifies the election of the member elected to fill such vacancy in either a special election or a general election. The person elected as a member to fill such a vacancy on the Council shall take office on the day on which the Board of Elections and Ethics certifies his election, and shall serve as a member of the Council only for the remainder of the term during which such vacancy occurred. With respect to a vacancy on the Council of a member elected at large who is not affiliated with any political party, the Council shall appoint a similarly non-affiliated

person to fill such vacancy until such vacancy can be filled in a special election in the manner prescribed in this paragraph. Such person appointed by the Council shall take office and serve as a member at the same time and for the same term as a member appointed by a central committee of a political party.

(3) Notwithstanding any other provision of this section, at no time shall there be more than 3 members (including the Chairman) serving at large on the Council who are affiliated with the same political party.

(e)(1) By a ⅚ vote of its members, the Council may adopt a resolution of expulsion if it finds, based on substantial evidence, that a member of the Council took an action that amounts to a gross failure to meet the highest standards of personal and professional conduct. Expulsion is the most severe punitive action, serving as a penalty imposed for egregious wrongdoing. Expulsion results in the removal of the member. Expulsion should be used in cases in which the Council determines that the violation of law committed by a member is of the most serious nature, including those violations that substantially threaten the public trust. To protect the exercise of official member duties and the overriding principle of freedom of speech, the Council shall not impose expulsion on any member for the exercise of his or her First Amendment right, no matter how distasteful the expression of that right was to the Council and the District, or in the official exercise of his or her office.

(2) The Council shall include in its Rules of Organization procedures for investigation, and consideration of, the expulsion of a member.

(Dec. 24, 1973, 87 Stat. 785, Pub. L. 93-198, title IV, § 401; Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(2); July 18, 2012, 126 Stat. 1133, Pub. L. 112-145, § 2(a); July 31, 2013, D.C. Law 19-124A, § 401(a), 59 DCR 1862.)

Section references. — This section is referenced in § 1-203.03, § 1-204.114, § 1-207.71, § 1-301.47, § 1-603.01, § 1-1001.17, § 2-502, § 2-601, § 2-1401.02, § 38-1201.03, § 38-1800.02, § 39-202, § 47-802, and § 47-1401.

Effect of amendments. — Pub. L. 112-145, in subsec. (b)(3), rewrote the first sentence, which had read: "To fill a vacancy in the Office of Chairman, the Board of Elections and Ethics shall hold a special election in the District on the 1st Tuesday occurring more than 114 days after the date on which such vacancy occurs, unless the Board of Elections and Ethics determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within 60 days of the date on which a special election would otherwise have been held under the provisions of this paragraph."; in subsec. (d)(1), rewrote the first sentence which had read: "In the event of a vacancy in the Council of a member elected from a ward, the Board of Elections and Ethics shall hold a special election in such ward to fill such vacancy on the 1st Tuesday occurring more than 114 days after the date on which such vacancy occurs, unless the Board of Elections and Ethics determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within 60 days of the date on which a special election would otherwise have been held under the provisions of this subsection."; and, in the second sentence of subsec. (d)(2), substituted "and such special election shall be held on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation." for "and such special election shall be held on the 1st Tuesday occurring more than 114 days after the date on which such vacancy occurs unless the Board of Elections and Ethics determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within 60 days of

the date on which a special election would otherwise be held under the provisions of this subsection."

The 2013 amendment by D.C. Law 19-124A added (e).

Legislative history of Law 19-124A. — Law 19-124A, the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011," was introduced in Council and assigned Bill No. 19-511, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 6, 2011, and December 20, 2011, respectively. Signed by the Mayor on February 27, 2012, it was assigned Act No. 19-318 and transmitted to both Houses of Congress for its review. D.C. Law 19-124 became effective on April 27, 2012. Pursuant to the requirements of §§ 601(j) and 702(b) of the act, D.C. Act 19-318 was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012, and transmitted to Congress on May 13, 2013 for a 35-day review, in accordance with Section 303 of the Home Rule Act. The Council of the District of Columbia gave notice at 60 D.C. REG. 12134 that the 35-day Congressional review period has ended, and D.C. Act 19-318 is now D.C. Law 19-124A, effective July 31, 2013.

Effective date. — Section 3 of Pub. L. 112-145 provided: "Sec. 3. Effective Date. The amendments made by section 2 shall apply with respect to vacancies occurring on or after the enactment of this Act."

Section 601(j) of D.C. Law 19-124 provided: "(j) Title IV shall apply on its effective date as provided in section 303 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 784; D.C. Official Code § 1-203.03)."

Section 601(j) of D.C. Law 19-124 contained an applicability clause for title IV of the Act that stated that title IV, containing section 401, would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

Section 702(b) of D.C. Law 19-124 provided that § 401 of the act would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

D.C. Law 19-124 became effective on April 27, 2012. Section 401 of that law was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012. Section 401 became effective as law on July 31, 2013, following 35 days of congressional review and assigned Law Number 19-124A. D.C. Law 19-124A, § 401 amended sections 401, 402, and 421 of the District of Columbia Home Rule Act (D.C. Official Code §§ 1-204.01, 1-204.02, and 1-204.21).

Editor's notes.

Applicability of D.C. Law 19-124, § 401: Section 601(j) of D.C. Law 19-124 provided that Title IV of the act shall apply on its effective date as provided in § 1-203.03; in other words, that D.C. Law 19-124, § 401 shall apply upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

§ 1-204.02. Qualifications for holding office.

No person shall hold the office of member of the Council, including the Office of Chairman, unless he: (1) Is a qualified elector; (2) is domiciled in the District and if he is nominated for election from a particular ward, resides in the ward from which he is nominated; (3) has resided and been domiciled in the District for 1 year immediately preceding the day on which the general or special election for such office is to be held; (4) has not been convicted of a felony while holding the office; and (5) holds no public office (other than his employment in and position as a member of the Council), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall prohibit any such person, while a member of the Council, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a reserve component of an armed force of the United States other than a member serving on active duty under a call for more than 30 days. A member of the Council shall forfeit his

office upon failure to maintain the qualifications required by this section, and, in the case of the Chairman, § 1-204.03(c).

(Dec. 24, 1973, 87 Stat. 786, Pub. L. 93-198, title IV, § 402; July 31, 2013, D.C. Law 19-124A, § 401(b), 59 DCR 1862.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-124A added "has not been convicted of a felony while holding the office" and made related changes.

Legislative history of Law 19-124A. — Law 19-124A, the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011," was introduced in Council and assigned Bill No. 19-511, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 6, 2011, and December 20, 2011, respectively. Signed by the Mayor on February 27, 2012, it was assigned Act No. 19-318 and transmitted to both Houses of Congress for its review. D.C. Law 19-124 became effective on April 27, 2012. Pursuant to the requirements of §§ 601(j) and 702(b) of the act, D.C. Act 19-318 was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012, and transmitted to Congress on May 13, 2013 for a 35-day review, in accordance with Section 303 of the Home Rule Act. The Council of the District of Columbia gave notice at 60 D.C. REG. 12134 that the 35-day Congressional review period has ended, and D.C. Act 19-318 is now D.C. Law 19-124A, effective July 31, 2013.

Effective date. — Section 601(j) of D.C. Law 19-124 provided: "(j) Title IV shall apply on its effective date as provided in section 303 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 784; D.C. Official Code § 1-203.03)."

Section 601(j) of D.C. Law 19-124 contained an applicability clause for title IV of the Act that stated that title IV, containing section 401, would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

Section 702(b) of D.C. Law 19-124 provided that § 401 of the act would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

D.C. Law 19-124 became effective on April 27, 2012. Section 401 of that law was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012. Section 401 became effective as law on July 31, 2013, following 35 days of congressional review and assigned Law Number 19-124A. D.C. Law 19-124A, § 401 amended sections 401, 402, and 421 of the District of Columbia Home Rule Act (D.C. Official Code §§ 1-204.01, 1-204.02, and 1-204.21).

Editor's notes. — Applicability of D.C. Law 19-124, § 401: Section 601(j) of D.C. Law 19-124 provided that Title IV of the act shall apply on its effective date as provided in § 1-203.03; in other words, that D.C. Law 19-124, § 401 shall apply upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

§ 1-204.04. Powers of the Council.

(a) Subject to the limitations specified in §§ 1-206.01 to 1-206.04, the legislative power granted to the District by this chapter is vested in and shall be exercised by the Council in accordance with this chapter. In addition, except as otherwise provided in this chapter, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan No. 3 of 1967, shall be carried out by the Council in accordance with the provisions of this chapter.

(b) The Council shall have authority to create, abolish, or organize any office, agency, department, or instrumentality of the government of the District and to define the powers, duties, and responsibilities of any such office, agency, department, or instrumentality.

(c) The Council shall adopt and publish rules of procedures which shall

include provisions for adequate public notification of intended actions of the Council.

(d) Every act shall be published and codified upon becoming law as the Council may direct.

(e) An act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within 10 calendar days (excluding Saturdays, Sundays, and holidays) after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall become law subject to the provisions of § 1-206.02(c). If the Mayor shall disapprove such act, he shall, within 10 calendar days (excluding Saturdays, Sundays, and holidays) after it is presented to him, return such act to the Council setting forth in writing his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within 10 calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall become law subject to the provisions of § 1-206.02(c) unless the Council by a recess of 10 days or more prevents its return, in which case it shall not become law. If, within 30 calendar days after an act has been timely returned by the Mayor to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to reenact such act, the act so reenacted shall become law subject to the provisions of § 1-206.02(c).

(f) In the case of any budget act adopted by the Council pursuant to § 1-204.46 and submitted to the Mayor in accordance with subsection (e) of this section, the Mayor shall have power to disapprove any items or provisions, or both, of such act and approve the remainder. In any case in which the Mayor so disapproves of any item or provision, he shall append to the act when he signs it a statement of the item or provision which he disapproves, and shall, within such 10-day period, return a copy of the act and statement with his objections to the Council. If, within 30 calendar days after any such item or provision so disapproved has been timely returned by the Mayor to the Council, two-thirds of the members of the Council present and voting vote to reenact any such item or provision, such item or provision so reenacted shall be incorporated in the budget act and become law subject to the provisions of § 1-206.02(c). In any case in which the Mayor fails to timely return any such item or provision so disapproved to the Council, the Mayor shall be deemed to have approved such item or provision not returned, and such item or provision not returned shall be incorporated in the budget act and become law subject to the provisions of § 1-206.02(c). In the case of any budget act for a fiscal year which is a control year (as defined in § 47-393(4)), this subsection shall apply as if the reference in the second sentence to "ten-day period" were a reference to "five-day period" and the reference in the third sentence to "thirty calendar days" were a reference to "5 calendar days."

(Dec. 24, 1973, 87 Stat. 787, Pub. L. 93-198, title IV, § 404; Oct. 27, 1978, 92 Stat. 2023, Pub. L. 95-526; Apr. 17, 1995, 109 Stat. 116, Pub. L. 104-8, § 202(f)(2); July 25, 2013, D.C. Law 19-321, § 2(b), 60 DCR 1724.)

Section references. — This section is referenced in § 1-202.02, § 1-204.102, § 1-207.12, § 1-301.191, § 1-1001.16, § 1-1401, § 2-218.11, § 2-218.21, § 2-219.33, § 2-1203.01, § 2-1411.01, § 2-1411.06, § 2-1515.02, § 3-603, § 6-623.03, § 7-761.03, § 7-771.02, § 8-151.03, § 10-166, § 10-1301, § 31-1202, § 38-171, § 38-191, § 38-1208.02, § 39-201, § 47-392.02, § 47-392.08, § 50-901, and § 50-921.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "incorporated in the budget act and become law subject to the provisions of § 1-206.02(c)" for "transmitted by the Chairman to the President of the United States" twice in (f).

Emergency legislation.

For temporary amendment of (f), see § 2(b) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Legislative history of Law 19-321. — Law 19-321, the "Local Budget Autonomy Act of 2012," was introduced in Council and assigned Bill No. 19-993. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec 18, 2012, respectively. Signed by the Mayor on Jan. 18, 2013, it was assigned Act No. 19-632. Section 5 of D.C. Act 19-632 contained a clause that stated that the act would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review. D.C. Act 19-632 was ratified by the electors of the District of Columbia in a special election held on April 23, 2013, and certified by the District of Columbia Board of Elections on May 8, 2013. D.C. Act 19-632 became effective as law on July 25, 2013, following 35 days of congressional review and assigned Law No. 19-321.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

LAW REVIEWS AND JOURNAL COMMENTARIES

Can Home Rule in the District of Columbia Survive the Chadha Decision? Bruce Comly French, 33 Cath.U.L.Rev 811, (1984).

Second-class Citizenship And The Second Amendment In The District Of Columbia, 5 Geo. Mason U. Civ. Rts. L.J. 105.

Subpart 2. Organization and Procedure of the Council.

§ 1-204.12. Acts, resolutions, and requirements for quorum.

(a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided in this chapter or by the Council. Except as provided in the last sentence of this subsection, the Council shall use acts for all legislative purposes. Each proposed act shall be read twice in substantially the same form, with at least 13 days intervening between each reading. Upon final adoption by the Council each act shall be made immediately available to the public in a manner which the Council shall determine. If the Council determines, by a vote of two-thirds of the members, that emergency circumstances make it necessary that an act be passed after a single reading, or that it take effect immediately upon enactment, such act shall be effective for a period of not to exceed 90 days. Resolutions shall be used (1) to express simple determinations, decisions, or directions of the Council of a special or temporary character; and (2) to approve or disapprove proposed actions of a kind historically or traditionally transmitted by the Mayor, the Board of Elections, Public Service Commission, Armory Board, Board of Education, the Board of Trustees of the University of the District of Columbia, or the Convention Center Board of Directors to the Council pursuant to an act.

Such resolutions must be specifically authorized by that act and must be designed to implement that act.

(b) A special election may be called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.

(c) A majority of the Council shall constitute a quorum for the lawful convening of any meeting and for the transaction of business of the Council, except a lesser number may hold hearings.

(Dec. 24, 1973, 87 Stat. 788, Pub. L. 93-198, title IV, § 412; Oct. 27, 1978, 92 Stat. 2023, Pub. L. 95-526; Oct. 12, 1984, 98 Stat. 1974, Pub. L. 98-473, § 131(c); July 25, 2013, D.C. Law 19-321, § 2(c), 60 DCR 1724.)

Section references. — This section is referenced in § 1-206.02, § 2-552, § 2-602, § 8-171.04, and § 47-802.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 deleted "(other than an act to which § 1-204.46 applies)" following "Each proposed act" in the third sentence of (a).

Emergency legislation. — For temporary amendment of section, see § 2(c) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

PART B.

THE MAYOR.

§ 1-204.21. Election, qualifications, vacancy, and compensation.

(a) There is established the Office of Mayor of the District of Columbia; and the Mayor shall be elected by the registered qualified electors of the District.

(b) The Mayor, established by subsection (a) of this section, shall be elected, on a partisan basis, for a term of 4 years beginning at noon on January 2nd of the year following his election.

(c)(1) No person shall hold the Office of Mayor unless he: (A) Is a qualified elector; (B) has resided and been domiciled in the District for 1 year immediately preceding the day on which the general or special election for Mayor is to be held; (C) has not been convicted of a felony while holding the office; and (D) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as Mayor), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the Office of Mayor, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a reserve

component of an armed force of the United States other than a member serving on active duty under a call for more than 30 days. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

(2) To fill a vacancy in the Office of Mayor, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation. The person elected Mayor to fill a vacancy in the Office of Mayor shall take office on the day on which the Board of Elections and Ethics certifies his election, and shall serve as Mayor only for the remainder of the term during which such vacancy occurred. When the Office of Mayor becomes vacant the Chairman shall become Acting Mayor and shall serve from the date such vacancy occurs until the date on which the Board of Elections and Ethics certifies the election of the new Mayor at which time he shall again become Chairman. While the Chairman is Acting Mayor, the Chairman shall receive the compensation regularly paid the Mayor, and shall receive no compensation as Chairman or member of the Council. While the Chairman is Acting Mayor, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as chairman pro tempore, until the return of the regularly elected Chairman.

(d) The Mayor shall receive compensation, payable in equal installments, at a rate equal to the maximum rate, as may be established from time to time, for level III of the Executive Schedule in § 5314 of Title 5 of the United States Code. Such rate of compensation may be increased or decreased by act of the Council. Such change in such compensation, upon enactment by the Council in accordance with the provisions of this chapter, shall apply with respect to the term of Mayor next beginning after the date of such change. In addition, the Mayor may receive an allowance, in such amount as the Council may from time to time establish, for official, reception, and representation expenses, which he shall certify in reasonable detail to the Council.

(Dec. 24, 1973, 87 Stat. 789, Pub. L. 93-198, title IV, § 421; Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); July 18, 2012, 126 Stat. 1133, Pub. L. 112-145, § 2(b); July 31, 2013, D.C. Law 19-124A, § 401(c), 59 DCR 1862.)

Section references. — This section is referenced in § 1-203.03, § 1-204.114, § 1-301.47, § 1-602.02, § 1-611.09, § 1-1001.17, § 2-601, § 38-1201.03, § 39-202, § 47-802, § 47-1401, and § 48-901.02.

Effect of amendments. — Pub. L. 112-145, in subsec. (c)(2), rewrote the first sentence which had read: "To fill a vacancy in the Office of Mayor, the Board of Elections and Ethics shall hold a special election in the District on the 1st Tuesday occurring more than 114 days after the date on which such vacancy occurs, unless the Board of Elections and Ethics determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within 60 days of the date on which a special election would otherwise have been held under the provisions of this paragraph."

The 2013 amendment by D.C. Law 19-124A substituted "to be held; (C) has not been convicted of a felony while holding the office; and (D) is" for "to be held; and (C) is" in (c)(1).

Legislative history of Law 19-124A. — Law 19-124A, the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011," was introduced in Council and assigned Bill No. 19-511, which was referred to the

Committee on Government Operations. The Bill was adopted on first and second readings on December 6, 2011, and December 20, 2011, respectively. Signed by the Mayor on February 27, 2012, it was assigned Act No. 19-318 and transmitted to both Houses of Congress for its review. D.C. Law 19-124 became effective on April 27, 2012. Pursuant to the requirements of §§ 601(j) and 702(b) of the act, D.C. Act 19-318 was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012, and transmitted to Congress on May 13, 2013 for a 35-day review, in accordance with Section 303 of the Home Rule Act. The Council of the District of Columbia gave notice at 60 D.C. REG. 12134 that the 35-day Congressional review period has ended, and D.C. Act 19-318 is now D.C. Law 19-124A, effective July 31, 2013.

Effective date. — Section 3 of Pub. L. 112-145 provided: "Sec. 3. Effective Date. The amendments made by section 2 shall apply with respect to vacancies occurring on or after the enactment of this Act."

Section 601(j) of D.C. Law 19-124 provided: "(j) Title IV shall apply on its effective date as provided in section 303 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 784; D.C. Official Code § 1-203.03)."

Section 601(j) of D.C. Law 19-124 contained an applicability clause for title IV of the Act that stated that title IV, containing section 401, would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

Section 702(b) of D.C. Law 19-124 provided that § 401 of the act would become law upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

D.C. Law 19-124 became effective on April 27, 2012. Section 401 of that law was ratified by the electors of the District of Columbia in a general and special election held on November 6, 2012, and certified by the District of Columbia Board of Elections on November 29, 2012. Section 401 became effective as law on July 31, 2013, following 35 days of congressional review and assigned Law Number 19-124A. D.C. Law 19-124A, § 401 amended sections 401, 402, and 421 of the District of Columbia Home Rule Act (D.C. Official Code §§ 1-204.01, 1-204.02, and 1-204.21).

Editor's notes. — Applicability of D.C. Law 19-124, § 401: Section 601(j) of D.C. Law 19-124 provided that Title IV of the act shall apply on its effective date as provided in§ 1-203.03; in other words, that D.C. Law 19-124, § 401 shall apply upon its ratification by a majority of the registered qualified electors of the District of Columbia voting in a referendum and following 35 days of congressional review.

§ 1-204.23. Municipal planning.

Section references. — This section is referenced in § 1-204.44, § 1-306.01, and § 1-328.02.

CASE NOTES

Zoning and planning, generally.

District of Columbia Zoning Commission properly approved a planned unit development (PUD) that involved replacing a library because, inter alia, the PUD did not violate the District of Columbia's comprehensive plan. D.C. Library Renaissance Project/West End Library Advisory Group v. District of Columbia Zoning Comm'n, 73 A.3d 107, 2013 D.C. App. LEXIS 484 (2013).

PART B-i.

CHIEF FINANCIAL OFFICER.

§ 1-204.24b. Appointment of the Chief Financial Officer.

(a) *Appointment.* —

(1) *In general.* — The Chief Financial Officer shall be appointed by the Mayor with the advice and consent, by resolution, of the Council. Upon

confirmation by the Council, the name of the Chief Financial Officer shall be submitted to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate for a 30-day period of review and comment before the appointment takes effect.

(2) *Special rule for control years.* — During a control year, the Chief Financial Officer shall be appointed by the Mayor as follows:

(A) Prior to the appointment, the Authority may submit recommendations for the appointment to the Mayor.

(B) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(C) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under subparagraph (B) of this paragraph, the Mayor shall notify the Authority of the nomination.

(D) The nomination shall be effective subject to approval by a majority vote of the Authority.

(b) *Term.* —

(1) *In general.* — All appointments made after June 30, 2007, shall be for a term of 5 years, except for appointments made for the remainder of unexpired terms. The appointments shall have an anniversary date of July 1.

(2) *Transition.* — For purposes of §§ 1-204.24a — 1-204.24f, the individual serving as Chief Financial Officer as of October 16, 2006, shall be deemed to have been appointed under this subsection, except that such individual's initial term of office shall begin upon such date and shall end on June 30, 2007.

(3) *Continuance.* — Any Chief Financial Officer may continue to serve beyond his term until a successor takes office.

(4) *Vacancies.* — Subject to subsection (c), any vacancy in the Office of Chief Financial Officer shall be filled in the same manner as the original appointment under subsection (a) of this section.

(5) *Pay.* — The Chief Financial Officer shall be paid at a rate such that the total amount of compensation paid during any calendar year does not exceed an amount equal to the limit on total pay which is applicable during the year under section 5307 of title 5, United States Code, to an employee described in section 5307(d) of such title

(c) *Authorizing treasurer or deputy CFO to perform duties in acting capacity in event of vacancy in office.* —

(1) *Service as CFO.* —

(A) *In general.* — Except as provided in subparagraph (B), if there is a vacancy in the Office of Chief Financial Officer because the Chief Financial Officer has died, resigned, or is otherwise unable to perform the functions and duties of the Office—

(i) the District of Columbia Treasurer shall serve as the Chief Financial Officer in an acting capacity, subject to the time limitation of paragraph (2); or

(ii) the Mayor may direct one of the Deputy Chief Financial Officers of the Office referred to in § 1-204.24a(c)(1) through (4) to serve as the Chief

Financial Officer in an acting capacity, subject to the time limitation of paragraph (2).

(B) *Exclusion of certain individuals.* — Notwithstanding subparagraph (A), an individual may not serve as the Chief Financial Officer under such clause if the individual did not serve as the District of Columbia Treasurer or as one of such Deputy Chief Financial Officers of the Office of the Chief Financial Officer (as the case may be) for at least 90 days during the 1-year period which ends on the date the vacancy occurs.

(2) *Time limitation.* — A vacancy in the Office of the Chief Financial Officer may not be filled by the service of any individual in an acting capacity under paragraph (1) after the expiration of the 210-day period which begins on the date the vacancy occurs.

(Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, § 424(b), as added Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 302(a); Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 155(a); Dec. 21, 2001, 115 Stat. 949, Pub. L. 107-96, § 111(d); Oct. 16, 2006, 120 Stat. 2031, Pub. L. 109-356, § 201(a); May 1, 2013, 127 Stat. 441, Pub. L. 113-8, § 2; Dec. 26, 2013, 127 Stat. 1209, Pub. L. 113-71, § 1(a).)

Section references. — This section is referenced in § 1-204.24a.

Effect of amendments.

Pub. L. 113-8 added "Subject to subsection (c)" to the beginning of (b)(4); and added (c).

Pub. L. 113-71 rewrote (b)(5).

Temporary legislation. — For temporary (225 days) amendment of this section, see §§ 2 and 4 of the Chief Financial Officer Compensation Temporary Amendment Act of 2013 (D.C. Law 20-44, October 24, 2013, 60 DCR 14957).

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 2 and 5 of the Chief Financial Officer Compensation Emergency Act of 2013 (D.C. Act 20-140, July 31, 2013, 60 DCR 11792, 20 DCSTAT 1984).

Short title. — Pub. L. 113-8, § 1. provided: "This Act may be cited as the 'District of Columbia Chief Financial Officer Vacancy Act'."

Editor's notes. — Pub. L. 113-8, § 2(c) provided that the amendments made by the Act shall apply with respect to vacancies occurring on or after May 1, 2013.

Pub. L. 113-71, § 1(b) provided that the amendments made by the Act shall apply with respect to vacancies occurring on or after Dec. 26, 2013.

§ 1-204.26. Procurement authority of the Chief Financial Officer.

Editor's notes. — Section 201(a) of D.C. Law 19-171 substituted "Chapter 3A of Title 2" for "Unit A of Chapter 3 of Title 2"; and substituted "§ 2-352.01" for "§ 2-301.05" in this section.

Section 201(b) of D.C. Law 19-171 provided that § 201(a) of the act shall become effective upon Congressional enactment.

CASE NOTES

Analysis

Arbitration.
Procurement Practices Act.

Arbitration.

Procurement Practices Act of 1985 (PPA) withheld authority from Office of the Chief Financial Officer (OCFO) employees to agree to arbitrate fraud claims as well as contract claims; contracting officers bound by the PPA cannot agree to settle, compromise or otherwise adjust fraud claims, and they cannot delegate to others the authority to do so because a government representative cannot delegate to another actual authority that he or she does not possess. Bank of Am., N.A. v. District of Columbia, 80 A.3d 650, 2013 D.C. App. LEXIS 788 (2013).

Procurement Practices Act.

Both the Procurement Practices Act of 1985

and this section can be given effect without one defeating the purpose of the other; while subsection (a) provides for independent contracting authority for the Office of the Chief Financial Officer (OCFO), the statute simply requires that in exercising that authority, the OCFO adhere to the same statutory procurement requirements by which the District of Columbia Chief Procurement Officer is bound. Bank of Am., N.A. v. District of Columbia, 80 A.3d 650, 2013 D.C. App. LEXIS 788 (2013).

Because the contract the District of Columbia entered into with a bank incorporated the Procurement Practices Act of 1985 (PPA), it evidenced the intent of the Office of the Chief Financial Officer to adhere to the PPA with respect to its dealings with the bank. Bank of Am., N.A. v. District of Columbia, 80 A.3d 650, 2013 D.C. App. LEXIS 788 (2013).

PART C.

THE JUDICIARY.

§ 1-204.31. Judicial powers.

(a) The judicial power of the District is vested in the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. The Superior Court has jurisdiction of any civil action or other matter (at law or in equity) brought in the District and of any criminal case under any law applicable exclusively to the District. The Superior Court has no jurisdiction over any civil or criminal matter over which a United States court has exclusive jurisdiction pursuant to an Act of Congress. The Court of Appeals has jurisdiction of appeals from the Superior Court and, to the extent provided by law, to review orders and decisions of the Mayor, the Council, or any agency of the District. The District of Columbia courts shall also have jurisdiction over any other matters granted to the District of Columbia courts by other provisions of law.

(b) The chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nominating [Nomination] Commission established by § 1-204.34 from among the judges of the court in regular active service, and shall serve as chief judge for a term of four years or until a successor is designated, except that the term as chief judge shall not extend beyond the chief judge's term as a judge of a District of Columbia court. An individual shall be eligible for redesignation as chief judge.

(c) A judge of a District of Columbia court appointed on or after the date of enactment of the District of Columbia Court Reorganization Act of 1970 [July 29, 1970] shall be appointed for a term of fifteen years subject to mandatory retirement at age seventy-four or removal, suspension, or involuntary retirement pursuant to § 1-204.32 and upon completion of such term, such judge shall continue to serve until reappointed or a successor is appointed and qualifies. A judge may be reappointed as provided in subsection (c) of § 1-204.33.

(d)(1) There is established a District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter referred to as the "Tenure Commission"). The Tenure Commission shall consist of seven members selected in accordance with the provisions of subsection (e). Such members shall serve for terms of six

years, except that the member selected in accordance with subsection (e)(3)(A) shall serve for five years; of the members first selected in accordance with subsection (e)(3)(B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (e)(3)(C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (e)(3)(D) shall serve for six years; and the member first appointed in accordance with subsection (e)(3)(E) shall serve for six years. In making the respective first appointments according to subsections (e)(3)(B) and (e)(3)(C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(2) The Tenure Commission shall act only at meetings called by the Chairman or a majority of the Tenure Commission held after notice has been given of such meeting to all Tenure Commission members.

(3) The Tenure Commission shall choose annually, from among its members, a Chairman and such other officers as it may deem necessary. The Tenure Commission may adopt such rules of procedures not inconsistent with this chapter as may be necessary to govern the business of the Tenure Commission.

(4) The District government shall furnish to the Tenure Commission, upon the request of the Tenure Commission, such records, information, services, and such other assistance and facilities as may be necessary to enable the Tenure Commission properly to perform its functions. Information so furnished shall be treated by the Tenure Commission as privileged and confidential.

(e)(1) No person may be appointed to the Tenure Commission unless such person —

(A) is a citizen of the United States;

(B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment; and

(C) is not an officer or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 102 of title 5 of the United States Code); and (except with respect to the person appointed or designated according to paragraph (3)(E)) is not an officer or employee of the judicial branch of the United States, or an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Tenure Commission shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of such person's predecessor.

(3) In addition to all other qualifications listed in this section, lawyer members of the Tenure Commission shall have the qualifications prescribed for persons appointed as judges of the District of Columbia courts. Members of the Tenure Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both of whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

No person may serve at the same time on both the District of Columbia Judicial Nomination Commission and on the District of Columbia Commission on Judicial Disabilities and Tenure.

(f) Any member of the Tenure Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

(g) The Tenure Commission shall have the power to suspend, retire, or remove a judge of a District of Columbia court as provided in § 1-204.32 and to make recommendations regarding the appointment of senior judges of the District of Columbia courts as provided in § 11-1504.

(Dec. 24, 1973, 87 Stat. 795, Pub. L. 93 198, title IV, § 433; Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99 573, §§ 12, 13; June 13, 1994, Pub. L. 103 266, §§ 2(b)(6), 2(b)(7), 2(b)(8), 108 Stat.713; Sept. 9, 1996, 110 Stat. 2369, Pub. L. 104 194, § 131(b); Apr. 26, 1996, 110 Stat. 1321-91, Pub. L. 104 134, § 133(b).)

Section references. — This section is referenced in § 11-908A.

Editor's notes. — This section is set out above to show a correction in the historical citation.

PART C-i.

THE ATTORNEY GENERAL.

§ 1-204.35. Election of the Attorney General.

(a) The Attorney General for the District of Columbia shall be elected on a partisan basis by the registered qualified electors of the District. Nothing in this section shall prevent a candidate for the position of Attorney General from belonging to a political party.

(b)(1) If a vacancy in the position of Attorney General occurs as a consequence of resignation, permanent disability, death, or other reason, the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a

totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation. The person elected Attorney General to fill a vacancy in the Office of the Attorney General shall take office on the day in which the Board of Elections and Ethics certifies his or her election, and shall serve as Attorney General only for the remainder of the term during which the vacancy occurred unless reelected.

(2) When the position of Attorney General becomes vacant, the Chief Deputy Attorney General shall become the Acting Attorney General and shall serve from the date the vacancy occurs until the date on which the Board of Elections and Ethics certifies the election of the new Attorney General at which time he or she shall again become the Chief Deputy Attorney General. While the Chief Deputy Attorney General is Acting Attorney General, he or she shall receive the compensation regularly paid the Attorney General, and shall receive no compensation as Chief Deputy Attorney General.

(c) The term of office for the Attorney General shall be 4 years and shall begin on noon on January 2nd of the year following his or her election. The term of office of the Attorney General shall coincide with the term of office of the Mayor.

(d) Any candidate for the position of Attorney General shall meet the qualifications of § 1-301.83, prior to the day on which the election for the Attorney General is to be held.

(e) The first election for the position of Attorney General shall be after January 1, 2014.

(Dec. 24, 1973, 87 Stat. 774, Pub. L. 93-198, title IV, § 435, as added May 28, 2011, D.C. Law 18-160A, § 201(b), 57 DCR 3012; July 18, 2012, 126, Pub. L. 112-145, § 2(c).)

Effect of amendments. — Public Law 112-145, in subsec. (b)(1), substituted "the Board of Elections shall hold a special election in the District on the Tuesday occurring at least 70 days and not more than 174 days after the date on which such vacancy occurs which the Board of Elections determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the opportunity for the greatest level of voter participation." for "the Board of Elections and Ethics shall hold a special election in the District on the 1st Tuesday occurring more than 114 days after the date on which the vacancy occurs, unless the Board of Elections and Ethics determines that the vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within 60 days of the date on which a special election would otherwise have been held under the provisions of this paragraph."

Editor's notes.

Section 3 of Pub. L. 112-145 provided that the amendments made by section 2 of the act shall apply with respect to vacancies occurring on or after July 18, 2012.

PART D.

DISTRICT BUDGET AND FINANCIAL MANAGEMENT.

Subpart 1. Budget and Financial Management.

§ 1-204.41. Fiscal year.

(a) *In general.* — Except as provided in subsection (b) of this section, the fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the 30th day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year. The District may change the fiscal year of the District by an act of the Council. If a change occurs, such fiscal year shall also constitute the budget and accounting year.

(b) *Exceptions.* —

(1) *Armory Board.* — The fiscal year for the Armory Board shall begin on the first day of January and shall end on the thirty-first day of December of each calendar year.

(2) *Schools.* — Effective with respect to fiscal year 2007 and each succeeding fiscal year, the fiscal year for the District of Columbia Public Schools (including public charter schools) and the University of the District of Columbia may begin on the first day of July and end on the thirtieth day of June of each calendar year.

(Dec. 24, 1973, 87 Stat. 798, Pub. L. 93-198, title IV, § 441; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(3); Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 1; Oct. 30, 2004, 118 Stat. 2230, Pub. L. 108-386, § 4; Oct. 16, 2006, 120 Stat. 2029, Pub. L. 109-356, § 124; July 25, 2013, D.C. Law 19-321, § 2(d), 60 DCR 1724.)

Section references. — This section is referenced in § 1-301.86, § 1-301.115a, § 1-1162.07, § 47-317.03a, and § 47-392.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-321 added the third and fourth sentences in (a).

Emergency legislation. — For temporary amendment of (a), see § 2(d) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date.

Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

§ 1-204.46. Enactment of local budget by Council.

(a) *Adoption of Budgets and Supplements.* — The Council, within 70 calendar days, or as otherwise provided by law, after receipt of the budget proposal from the Mayor, and after public hearing, and by a vote of a majority of the members present and voting, shall by act adopt the annual budget for the District of Columbia government. The federal portion of the annual budget

shall be submitted by the Mayor to the President for transmission to Congress. The local portion of the annual budget shall be submitted by the Chairman of the Council to the Speaker of the House of Representatives pursuant to the procedure set forth in § 1-206.02(c). Any supplements to the annual budget shall also be adopted by act of the Council, after public hearing, by a vote of a majority of the members present and voting.

(b) *Transmission to President During Control Years.* — In the case of a budget for a fiscal year which is a control year, the budget so adopted shall be submitted by the Mayor to the President for transmission by the President to the Congress; except, that the Mayor shall not transmit any such budget, or amendments or supplements to the budget, to the President until the completion of the budget procedures contained in this chapter and the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) *Prohibiting Obligations and Expenditures Not Authorized Under Budget.* — Except as provided in § 1-204.45a(b), § 1-204.46b, § 1-204.67(d), § 1-204.71(c), § 1-204.72(d)(2), § 1-204.75(e)(2), § 1-204.83(d), and subsections (f), (g), (h)(3), and (i)(3) of § 1-204.90, no amount may be obligated or expended by any officer or employee of the District of Columbia government unless—

(1) such amount has been approved by an act of the Council (and then only in accordance with such authorization) and such act has been transmitted by the Chairman to the Congress and has completed the review process under § 1-206.02(c)(3); or

(2) in the case of an amount obligated or expended during a control year, such amount has been approved by an Act of Congress (and then only in accordance with such authorization).

(d) *Restrictions on Reprogramming of Amounts.* — After the adoption of the annual budget for a fiscal year (beginning with the annual budget for fiscal year 1995), no reprogramming of amounts in the budget may occur unless the Mayor submits to the Council a request for such reprogramming and the Council approves the request, but and only if any additional expenditures provided under such request for an activity are offset by reductions in expenditures for another activity.

(e) *Definition.* — In this part, the term "control year" has the meaning given such term in § 47-393(4).

(Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 446; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 2; Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(b)(1); Aug. 6, 1996, 110 Stat. 1696, Pub. L. 104-184, § 2(c)(2); Aug. 5, 1997, 111 Stat. 777, Pub. L. 105-33, §§ 11509, 11714(b); Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 160(a)(2); Oct. 30, 2004, 118 Stat. 2230, Pub. L. 108-386, § 5; Oct. 16, 2006, 120 Stat. 2021, 2028, 2041, Pub. L. 109-356, §§ 101(b), 121(a), 305(b); July 25, 2013, D.C. Law 19-321, § 2(e), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.04, § 1-204.45a, § 1-204.46a, § 1-204.46b, § 1-204.67, § 1-204.71, § 1-204.72, § 1-204.75, § 1-204.83, § 1-204.90, § 1-204.102, § 1-301.86, § 1-301.115a, § 1-722, § 1-907.03, § 1-1001.16, § 1-1162.07, § 1-1163.27, § 7-751.15a, § 7-1617, § 7-2332, § 7-3004, § 24-106, § 31-3171.03, § 34-2152,

§ 38-2652, § 47-317.03a, § 47-392.02, § 47-392.08, § 47-392.21, § 47-396.01, and § 47-398.03.

Effect of amendments.

The 2013 amendment by D.C. Law 19-321 rewrote this section.

Emergency legislation.

For temporary amendment of section, see § 2(e) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date.

Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

References in text. — The District of Columbia Financial Responsibility and Management Assistance Act of 1995, referred to in (b), is Pub. L. 104-8, 109 Stat. 152, effective Apr. 17, 1995.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

In the Fiscal Year 2014 Budget Request Act of 2013, D.C. Act 20-127, the Council of the District of Columbia approved the following expenditure levels and appropriation language for the government of the District of Columbia for the fiscal year ending September 30, 2014.

Section 127 of An Act Making continuing appropriations for the fiscal year ending September 30, 2014, and for other purposes, approved October 17, 2013 (Pub. L. 113-46; 127 Stat. 558), provided:

"Notwithstanding any other provision of this joint resolution, the District of Columbia may expend local funds under the heading "District of Columbia Funds" for such programs and activities under title IV of H.R. 2786 (113th Congress), as reported by the Committee on Appropriations of the House of Representatives, at the rate set forth under "District of Columbia Funds-Summary of Expenses" as included in the Fiscal Year 2014 Budget Request Act of 2013 (D.C. Act 20-127), as modified as of the date of the enactment of this joint resolution.".

§ 1-204.46b. Acceptance of grant amounts not included in annual budget.

(a) *Authority to accept, obligate, and expend amounts.* — Notwithstanding § 1-204.46(c), the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the budget as provided in such section.

(b) *Conditions.* —

(1) *Role of chief financial officer; approval by council.* — No Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until —

(A) the Chief Financial Officer submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) *Deemed approval by council.* — For purposes of paragraph (1)(B) of this subsection, the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if —

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A) of this subsection; or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A) of this subsection.

(c) *No obligation or expenditure permitted in anticipation of receipt or approval.* — No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) *Adjustments to annual budget.* — The Chief Financial Officer may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts provided in the budget approved by Act of Congress under § 1-204.46, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) *Reports.* — The Chief Financial Officer shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

(f) *Effective date.* — This section shall apply with respect to fiscal year 2006 and each succeeding fiscal year.

(Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 446b, as added Oct. 16, 2006, 120 Stat. 2040, Pub. L. 109-356, § 305(a); Mar. 11, 2009, 123 Stat. 696, Pub. L. 111-8, § 808(a); July 25, 2013, D.C. Law 19-321, § 2(f), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46 and § 44-951.06.

Effect of amendments.

The 2013 amendment by D.C. Law 19-321 in (a), substituted "§ 1-204.46(c)" for "the fourth sentence of § 1-204.46" and deleted "approved by Act of Congress" following "budget".

Legislative history of Law 19-321. — See note to § 1-204.04.

Emergency legislation. — For temporary amendment of (a), see § 2(f) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes. — Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

§ 1-204.47. Consistency of budget, accounting, and personnel systems.

The Mayor shall implement appropriate procedures to insure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis. No employee shall be hired on a full-time or part-time basis unless such position is authorized by act of the Council (or Act of Congress, in the case of a year which is a control year). Employees shall be assigned in accordance with the program, organization, and fund categories specified in the act of the Council (or Act of Congress, in the case of a year which is a control year) authorizing such position. Hiring of temporary employees and temporary employee transfers among programs shall be consistent with applicable acts of the Council (or Acts of Congress, in the case of a year which is a control year) and reprogramming procedures to

insure that costs are accurately associated with programs and sources of funding.

(Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 447; July 25, 2013, D.C. Law 19-321, § 2(g), 60 DCR 1724; Dec. 24, 1973, 87 Stat. 801, Pub. L. 93-198, title IV, § 447.)

Section references. — This section is referenced in § 47-375.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "act of the Council (or Act of Congress, in the case of a year which is a control year)" for "Act of Congress," and "acts of the Council (or Acts of Congress, in the case of a year which is a control year)" for "Acts of Congress" throughout the section.

Emergency legislation. — For temporary amendment of section, see § 2(g) of the Local Budget Autonomy Emergency Amendment Act of 2012 (D.C. Act 19-566, January 7, 2013, 59 DCR 15061, applicable as of January 1, 2014, and effective as provided in § 1-203.03.

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

§ 1-204.50. General and special funds.

CASE NOTES

Construction with other laws.

Council of District of Columbia did not violate Home Rule Act when it directed transfer of monies from Real Estate Guarantee and Education Fund to District's General Fund for purpose of balancing District's budget for fiscal year; provision of Act providing for special funds did not prohibit Council from legislating transfer of monies out of special fund and into General Fund. Wash., D.C. Ass'n of Realtors, Inc. v. District of Columbia, 44 A.3d 299, 2012 D.C. App. LEXIS 271 (2012).

§ 1-204.51. Special rules regarding certain contracts.

(a) *Contracts extending beyond one year.* — No contract involving expenditures out of an appropriation which is available for more than 1 year shall be made for a period of more than 5 years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

(b) *Contracts exceeding certain amount.*—

(1) *In general.* — No contract involving expenditures in excess of $1,000,000 during a 12-month period may be made unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council).

(2) *Deemed approval.* — For purposes of paragraph (1) of this subsection, the Council shall be deemed to approve a contract if —

(A) during the 10-day period beginning on the date the Mayor submits the contract to the Council, no member of the Council introduces a resolution approving or disapproving the contract; or

(B) during the 45-calendar day period beginning on the date the Mayor submits the contract to the Council, the Council does not disapprove the contract.

(c) *Multiyear contracts.* —

(1) The District may enter into multiyear contracts to obtain goods and

services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from —

(A) appropriations originally available for the performance of the contract concerned;

(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

(C) funds appropriated for those payments.

(3) No contract entered into under this subsection shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.

(d) *Exemption for certain contracts.* — The requirements of this section shall not apply with respect to any of the following contracts:

(1) Any contract entered into by the Washington Convention Center Authority for preconstruction activities, project management, design, or construction.

(2) Any contract entered into by the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, other than contracts for the sale or lease of the Blue Plains Wastewater Treatment Plant.

(3) At the option of the Council, any contract for a highway improvement project carried out under title 23, United States Code.

(Dec. 24, 1973, 87 Stat. 803, Pub. L. 93 198, title IV, § 451; Apr. 17, 1995, 109 Stat. 151, Pub. L. 104 8, § 304(a); Apr. 26, 1996, 110 Stat. 1321-92, Pub. L. 104 134, § 134; Sept. 9, 1996, 110 Stat. 2376, Pub. L. 104 194, § 144; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105 33, § 11704(a).)

Section references. — This section is referenced in § 1-204.96, § 2-352.02, § 2-355.04, § 2-402, § 2-1553, § 4-1303.03, § 34-1731.03, § 34-2202.05, and § 44-951.11.

Editor's notes.

This section is set out above to show a correction in the historical citation.

PART E.

BORROWING.

Subpart 1. Borrowing.

§ 1-204.67. Authority to create security interests in District revenues.

(a) *In general.* — An act of the Council authorizing the issuance of general

obligation bonds or notes under § 1-204.61(a), § 1-204.71(a), § 1-204.72(a), or § 1-204.75(a) may create a security interest in any District revenues as additional security for the payment of the bonds or notes authorized by such act.

(b) *Contents of acts.* — Any such act creating a security interest in District revenues may contain provisions (which may be part of the contract with the holders of such bonds or notes):

(1) Describing the particular District revenues which are subject to such security interest;

(2) Creating a reasonably required debt service reserve fund or any other special fund;

(3) Authorizing the Mayor of the District to execute a trust indenture securing the bonds or notes;

(4) Vesting in the trustee under such a trust indenture such properties, rights, powers, and duties in trust as may be necessary, convenient, or desirable;

(5) Authorizing the Mayor of the District to enter into and amend agreements concerning:

(A) The custody, collection, use, disposition, security, investment, and payment of the proceeds of the bonds or notes and the District revenues which are subject to such security interest; and

(B) The doing of any act (or the refraining from doing any act) that the District would have the right to do in the absence of such an agreement;

(6) Prescribing the remedies of the holders of the bonds or notes in the event of a default; and

(7) Authorizing the Mayor to take any other actions in connection with the issuance, sale, delivery, security, and payment of the bonds or notes.

(c) *Timing and perfection of security interests.* — Notwithstanding article 9 of title 28 of the District of Columbia Code, any security interest in District revenues created under subsection (a) of this section shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the District, whether or not such individual or legal entity has notice of such lien.

(d) *Obligations and expenditures not subject to appropriation.* — Section 1-204.46(c) shall not apply to any obligation or expenditure of any District revenues to secure any general obligation bond or note under subsection (a) of this section.

(Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 467, as added Dec. 23, 1981, 95 Stat. 1496, Pub. L. 97-105, § 10; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 770, Pub. L. 105-33, § 11505; July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46 and § 1-204.48.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in (d).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

Subpart 2. Short-Term Borrowing.

§ 1-204.71. Borrowing to meet appropriations.

(a) In the absence of unappropriated revenues available to meet appropriations made pursuant to § 1-204.46, the Council may by act authorize the issuance of general obligation notes. The total amount of all such general obligation notes originally issued during a fiscal year shall not exceed 2% of the total appropriations for the District for such fiscal year.

(b) Any general obligation note issued under subsection (a) of this section, as authorized by an act of the Council, may be renewed. Any such note, including any renewal of such note, shall be due and payable not later than the last day of the fiscal year occurring immediately after the fiscal year during which the act authorizing the original issuance of such note takes effect.

(c) Section 1-204.46(c) shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any general obligation note issued under subsection (a) of this section.

(Dec. 24, 1973, 87 Stat. 779, Pub. L. 93-198, title VII, § 771; Aug. 29, 1974, 88 Stat. 793, Pub. L. 93-395, § 1(8); July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46, § 1-204.67, § 1-204.82, § 1-204.83, and § 42-2704.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in (c).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

§ 1-204.72. Borrowing in anticipation of revenues.

(a) *In general.* — In anticipation of the collection or receipt of revenues for a fiscal year, the Council may by act authorize the issuance of general obligation notes for such fiscal year, to be known as revenue anticipation notes.

(b) *Limit on aggregate notes outstanding.* — The total amount of all revenue anticipation notes issued under subsection (a) of this section outstanding at any time during a fiscal year shall not exceed 20% of the total anticipated revenue of the District for such fiscal year, as certified by the Mayor under this subsection. The Mayor shall certify, as of a date which occurs not more than 15

days before each original issuance of such revenue anticipation notes, the total anticipated revenue of the District for such fiscal year.

(c) *Permitted outstanding duration.* — Any revenue anticipation note issued under subsection (a) of this section may be renewed. Any such note, including any renewal note, shall be due and payable not later than the last day of the fiscal year during which the note was originally issued.

(d) *Effective date of authorization acts; payments not subject to appropriation.* —

(1) *Effective date.* — Notwithstanding § 1-206.02(c)(1), any act of the Council authorizing the issuance of revenue anticipation notes under subsection (a) of this section shall take effect:

(A) if such act is enacted during a control year (as defined in § 47-393(4)), on the date of approval by the District of Columbia Financial Responsibility and Management Assistance Authority; or

(B) if such act is enacted during any other year, on the date of enactment of such act.

(2) *Payments not subject to appropriation.* — Section 1-204.46(c) shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any revenue anticipation note issued under subsection (a) of this section.

(Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 472; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 12; Aug. 5, 1997, 111 Stat. 771, Pub. L. 105-33, § 11506; July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46, § 1-204.67, § 1-204.82, § 1-204.83, and § 1-206.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in (d)(2).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

D.C. Act 19-449, 59 DCR 11081, the "Fiscal Year 2013 Tax Revenue Anticipation Notes Act of 2012" authorized the issuance of additional District of Columbia general obligation tax revenue anticipation notes to finance general governmental expenses for the fiscal year ending September 30, 2013.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

§ 1-204.75. Bond anticipation notes.

(a) *Authorizing issuance.* —

(1) *In general.* — In anticipation of the issuance of general obligation bonds, the Council may by act authorize the issuance of general obligation notes to be known as bond anticipation notes in accordance with this section.

(2) *Purposes; permitting issuance of general obligation bonds to cover indebtedness.* — The proceeds of bond anticipation notes issued under this section shall be used for the purposes for which general obligation bonds may be issued under § 1-204.61, and such notes shall constitute indebtedness which may be refunded through the issuance of general obligation bonds under such section.

(b) *Maximum annual debt service amount.* — The act of the Council authorizing the issuance of bond anticipation notes shall set forth for the bonds

anticipated by such notes an estimated maximum annual debt service amount based on an estimated schedule of annual principal payments and an estimated schedule of annual interest payments (based on an estimated maximum average annual interest rate for such bonds over a period of 30 years from the earlier of the date of issuance of the notes or the date of original issuance of prior notes in anticipation of those bonds). Such estimated maximum annual debt service amount as estimated at the time of issuance of the original bond anticipation notes shall be included in the calculation required by § 1-206.03(b) while such notes or renewal notes are outstanding.

(c) *Permitted outstanding duration.* — Any bond anticipation note, including any renewal note, shall be due and payable not later than the last day of the third fiscal year following the fiscal year during which the note was originally issued.

(d) *General authority of Council.* — If provided for in [an] Act of the Council authorizing such an issue of bond anticipation notes, bond anticipation notes may be issued in succession, in such amounts, at such times, and bearing interest rates within the permitted maximum authorized by such Act.

(e) *Effective date of authorization acts; payments not subject to appropriation.* —

(1) *Effective date.* — Notwithstanding § 1-206.02(c)(1), any act of the Council authorizing the renewal of bond anticipation notes under subsection (c) [subsection (d)] or the issuance of general obligation bonds under § 1-204.61(a) to refund any bond anticipation notes shall take effect —

(A) if such act is enacted during a control year (as defined in § 47-393(4)), on the date of approval by the District of Columbia Financial Responsibility and Management Assistance Authority; or

(B) if such act is enacted during any other year, on the date of enactment of such act.

(2) *Payment not subject to appropriation.* — Section 1-204.46(c) shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any bond anticipation note issued under this section.

(Dec. 24, 1973, 87 Stat. 806, Pub. L. 93-198, title IV, § 475, as added Aug. 5, 1997, 111 Stat. 771, Pub. L. 105-33, § 11507(a); July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46, § 1-204.67, and § 47-340.30.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in (e)(2).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date.

Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

Subpart 3. Payment of Bonds and Notes.

§ 1-204.83. Payment of the general obligation bonds and notes.

(a) The Council shall provide in each annual budget for the District of Columbia government for a fiscal year adopted by the Council pursuant to § 1-204.46 sufficient funds to pay the principal of and interest on all general obligation bonds or notes issued under § 1-204.61(a), § 1-204.71(a), or § 1-204.72(a) becoming due and payable during such fiscal year.

(b) The Mayor shall insure that the principal of and interest on all general obligation bonds and notes issued under § 1-204.61(a), § 1-204.71(a), or § 1-204.72(a) are paid when due, including by paying such principal and interest from funds not otherwise legally committed.

(c) Repealed.

(d) Section 1-204.46(c) shall not apply to:

(1) Any amount set aside in a debt service fund under § 1-204.81(a);

(2) Any amount obligated or expended for the payment of the principal of, interest on, or redemption premium for any general obligation bond or note issued under § 1-204.61(a), § 1-204.71(a), or § 1-204.72(a);

(3) Any amount obligated or expended as provided by the Council in any annual budget for the District of Columbia government pursuant to subsection (a) of this section or as provided by any amendment or supplement to such budget; or

(4) Any amount obligated or expended by the Mayor pursuant to subsection (b) or (c) [(c) repealed] of this section.

(Dec. 24, 1973, 87 Stat. 807, Pub. L. 93-198, title IV, § 483, as added Dec. 23, 1981, 95 Stat. 1498, Pub. L. 97-105, § 14; Aug. 5, 1997, 111 Stat. 777, Pub. L. 105-33, § 11601(b)(1)(B); July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46 and § 1-204.48.

Effect of amendments. — The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in the introductory paragraph of (d).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes. — Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

Subpart 5. Tax Exemptions; Legal Investment; Water Pollution; Reservoirs; Metro Contributions; and Revenue Bonds.

§ 1-204.87. Water pollution.

Section references. — This section is referenced in § 34-2202.16.

Emergency legislation. — For temporary (90 day) additions, see § 2 of Blue Plains Intermunicipal Agreement of 2012 Congressional Approval Emergency Request Act of 2012

(D.C. Act 19-422, July 25, 2012, 59 DCR 9365).

§ 1-204.90. Revenue bonds and other obligations.

(a)(1) Subject to paragraph (2) of this subsection, the Council may by act or by resolution authorize the issuance of taxable and tax-exempt revenue bonds, notes, or other obligations to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of or for capital projects and other undertakings by the District or by any District instrumentality, or on behalf of any qualified applicant, including capital projects or undertakings in the areas of housing; health facilities; transit and utility facilities; manufacturing; sports, convention, and entertainment facilities; recreation, tourism and hospitality facilities; facilities to house and equip operations of the District government or its instrumentalities; public infrastructure development and redevelopment; elementary, secondary and college and university facilities; educational programs which provide loans for the payment of educational expenses for or on behalf of students; facilities used to house and equip operations related to the study, development, application, or production of innovative commercial or industrial technologies and social services; water and sewer facilities (as defined in paragraph (5) of this subsection); pollution control facilities; solid and hazardous waste disposal facilities; parking facilities, industrial and commercial development; authorized capital expenditures of the District; and any other property or project that will, as determined by the Council, contribute to the health, education, safety, or welfare, of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District, and any facilities or property, real or personal, used in connection with or supplementing any of the foregoing; lease-purchase financing of any of the foregoing facilities or property; and any costs related to the issuance, carrying, security, liquidity or credit enhancement of or for revenue bonds, notes, or other obligations, including, capitalized interest and reserves, and the costs of bond insurance, letters of credit, and guaranteed investment, forward purchase, remarketing, auction, and swap agreements. Any such financing, refinancing, or reimbursement may be effected by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be a special obligation of the District and shall be a negotiable instrument, whether or not such revenue bond, note, or other obligation is a security as defined in § 28:8-102(1)(a).

(3) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be paid and secured (as to principal, interest, and any premium) as provided by the act or resolution of the Council authorizing the issuance of such revenue bond, note, or other obligation. Any act or resolution of the Council, or any delegation of Council authority under subsection (a)(6) of this section, authorizing the issuance of revenue bonds, notes, or other obligations may provide for (A) the payment of such revenue

bonds, notes, or other obligations from any available revenues, assets, property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities), and (B) the securing of such revenue bond, note, or other obligation by the mortgage of real property or the creation of a security interest in available revenues, assets, or other property (including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities).

(4)(A) In authorizing the issuance of any revenue bond, note, or other obligation under paragraph (1) of this subsection, the Council may enter into, or authorize the Mayor to enter into, any agreement concerning the acquisition, use, or disposition of any available revenues, assets, or property. Any such agreement may create a security interest in any available revenues, assets, or property, may provide for the custody, collection, security, investment, and payment of any available revenues (including any funds held in trust) for the payment of such revenue bond, note, or other obligation, may mortgage any property, may provide for the acquisition, construction, maintenance, and disposition of the undertaking financed or refinanced using the proceeds of such revenue bond, note, or other obligation, and may provide for the doing of any act (or the refraining from doing of any act) which the District has the right to do in the absence of such agreement. Any such agreement may be assigned for the benefit of, or made a part of any contract with, any holder of such revenue bond, note, or other obligation issued under paragraph (1) of this subsection.

(B) Notwithstanding Article 9 of Title 28, any security interest created under subparagraph (A) of this paragraph shall be valid, binding, and perfected from the time such security interest is created, with or without the physical delivery of any funds or any other property and with or without any further action. Such security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to such security interest is recorded or filed. The lien created by such security interest is valid, binding, and perfected with respect to any individual or legal entity having claims against the District, whether or not such individual or legal entity has notice of such lien.

(C) Any funds of the District held for the payment or security of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection, whether or not such funds are held in trust, may be secured in the manner agreed to by the District and any depository of such funds. Any depository of such funds may give security for the deposit of such funds.

(5) In paragraph (1) of this subsection, the term "water and sewer facilities" means facilities for the obtaining, treatment, storage, and distribution of water, the collection, storage, treatment, and transportation of wastewater, storm drainage, and the disposal of liquids and solids resulting from treatment.

(6)(A) The Council may by act delegate to any District instrumentality the authority of the Council under subsection (a)(1) of this section to issue taxable or tax-exempt revenue bonds, notes, or other obligations to borrow money for

the purposes specified in this subsection. For purposes of this paragraph, the Council shall specify for what undertakings revenue bonds, notes, or other obligations may be issued under each delegation made pursuant to this paragraph. Any District instrumentality may exercise the authority and the powers incident thereto delegated to it by the Council as described in the first sentence of this paragraph only in accordance with this paragraph and shall be consistent with this paragraph and the terms of the delegation.

(B) Revenue bonds, notes, or other obligations issued by a District instrumentality under a delegation of authority described in subparagraph (A) of this paragraph shall be issued by resolution of that instrumentality, and any such resolution shall not be considered to be an act of the Council.

(C) Nothing in this paragraph shall be construed as restricting, impairing, or superseding the authority otherwise vested by law in any District instrumentality.

(b) No property owned by the United States may be mortgaged or made subject to any security interest to secure any revenue bond, note, or other obligation issued under subsection (a)(1) of this section.

(c) Any and all such revenue bonds, notes, or other obligations issued under subsection (a)(1) of this section shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or taxing power of the District (other than with respect to any dedicated taxes) and shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings for purposes of § 1-206.02(a)(2).

(d) Any and all such bonds, notes, or other obligations shall be issued pursuant to an act of the Council without the necessity of submitting the question of such issuance to the registered qualified electors of the District for approval or disapproval.

(e) Any act of the Council authorizing the issuance of revenue bonds, notes, or other obligations under paragraph (1) of subsection (a) of this section may:

(1) Briefly describe the purpose for which such bonds, notes, or other obligations are to be issued;

(2) Identify the act authorizing such purpose;

(3) Prescribe the form, terms, provisions, manner, and method of issuing and selling (including sale by negotiation or by competitive bid) such bonds, notes, or other obligations;

(4) Provide for the rights and remedies of the holders of such bonds, notes, or other obligations upon default;

(5) Prescribe any other details with respect to the issuance, sale, or securing of such bonds, notes, or other obligations; and

(6) Authorize the Mayor to take any actions in connection with the issuance, sale, delivery, security, and payment of such bonds, notes, or other obligations, including the prescribing of any terms or conditions not contained in such act of the Council.

(f) Section 1-204.46(c) shall not apply to:

(1) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligations issued under subsection (a)(1) of this section;

(2) Any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under subsection (a)(1) of this section;

(3) Any amount obligated or expended pursuant to provisions made to secure any revenue bond, note, or other obligations issued under subsection (a)(1) of this section; and

(4) Any amount obligated or expended pursuant to commitments made in connection with the issuance of revenue bonds, notes, or other obligations for repair, maintenance, and capital improvements relating to undertakings financed through any revenue bond, note, or other obligation issued under subsection (a)(1) of this section.

(g)(1) The Council may delegate to any housing finance agency established by it (whether established before or after April 12, 1980) the authority of the Council under subsection (a) of this section to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing of undertakings in the area of primarily low-and moderate-income housing. The Council shall define for the purposes of the preceding sentence what undertakings shall constitute undertakings in the area of primarily low-and moderate-income housing. Any such housing finance agency may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after April 12, 1980) only in accordance with this subsection.

(2) Revenue bonds, notes, and other obligations issued by a housing finance agency of the District under a delegation of authority described in paragraph (1) of this subsection shall be issued by resolution of the agency, and any such resolution shall not be considered to be an act of the Council.

(3) Section 1-204.46(c) shall not apply to:

(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under paragraph (1) of this subsection;

(B) Any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under paragraph (1) of this subsection; and

(C) Any amount obligated or expended to secure any revenue bond, note, or other obligation issued under paragraph (1) of this subsection.

(h)(1) The Council may delegate to the District of Columbia Water and Sewer Authority established pursuant to § 34-2202.02 the authority of the Council under subsection (a) of this section to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing or refinancing of undertakings in the area of utilities facilities, pollution control facilities, and water and sewer facilities (as defined in subsection (a)(5) of this section). The Authority may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after August 6, 1996) only in accordance with this subsection.

(2) Revenue bonds, notes, and other obligations issued by the District of Columbia Water and Sewer Authority under a delegation of authority described in paragraph (1) of this subsection shall be issued by resolution of the

Authority, and any such resolution shall not be considered to be an act of the Council.

(3) Section 1-204.46(c) shall not apply to:

(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued pursuant to this subsection;

(B) Any amount obligated or expended for the payment of the principal of interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

(C) Any amount obligate or expended to secure any revenue bond, not, or other obligation issued pursuant to this subsection; or

(D) Any amount obligated or expended for repair, maintenance, and capita improvements to facilities financed pursuant to this subsection.

(i)(1) The Council may delegate to the District of Columbia Tobacco Settlement Financing Corporation (hereafter in this subsection referred to as the "Corporation") established pursuant to subchapter III of Chapter 18 of Title 7 the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations which are used to borrow money to finance or assist in the financing or refinancing of capital projects and other undertakings of the District of Columbia and which are payable solely from and secured by payments under the Master Tobacco Settlement Agreement. The Corporation may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection and the provisions of subchapter III of Chapter 18 of Title 7.

(2) Revenue bonds, notes, and other obligations issued by the Corporation under a delegation of authority described in paragraph (1) of this subsection shall be issued by resolution of the Corporation, and any such resolution shall not be considered to be an act of the Council.

(3) Section 1-204.46(c) shall not apply to:

(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued pursuant to this subsection;

(B) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

(C) any amount obligated or expended to secure any revenue bond, note, or other obligation issued pursuant to this subsection; or

(D) any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to this subsection.

(4) In this subsection, the term "Master Tobacco Settlement Agreement" means the settlement agreement (and related documents), as may be amended from time to time, entered into on November 23, 1998, by the District of Columbia and leading United States tobacco product manufacturers.

(j) The revenue bonds, notes, or other obligations issued under subsection (a)(1) of this section are not general obligation bonds of the District government and shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in § 1-206.03(b).

(k) The issuance of revenue bonds, notes, or other obligations by the District where the ultimate obligation to repay such revenue bonds, notes, or other obligations is that of one or more nongovernmental persons or entities may be authorized by resolution of the Council. The issuance of all other revenue bonds, notes, or other obligations by the District shall be authorized by act of the Council.

(l) During any control period (as defined in § 47-392.09), any act or resolution of the Council authorizing the issuance of revenue bonds, notes, or other obligations under subsection (a)(1) of this section shall be submitted to the District of Columbia Financial Responsibility and Management Assistance Authority for certification in accordance with § 47-392.04. Any certification issued by the Authority during a control period shall be effective for purposes of this subsection for revenue bonds, notes, or other obligations issued pursuant to such act or resolution of the Council whether the revenue bonds, notes, or other obligations are issued during or subsequent to that control period.

(m) The following provisions of law shall not apply with respect to property acquired, held, and disposed of by the District in accordance with the terms of any lease-purchase financing authorized pursuant to subsection (a)(1) of this section:

(1) Chapter 8 of Title 10.

(2) Subchapter III of Chapter 13 of Title 16.

(3) Any other provision of District of Columbia law that prohibits or restricts lease-purchase financing.

(n) For purposes of this section, the following definitions shall apply:

(1) The term "revenue bonds, notes, or other obligations" means special fund bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) used to borrow money to finance, assist in financing, refinance, or repay, restore or reimburse moneys used for purposes referred to in subsection (a)(1) of this section the principal of and interest, if any, on which are to be paid and secured in the manner described in this section and which are special obligations and to which the full faith and credit of the District of Columbia is not pledged.

(2) The term "District instrumentality" means any agency or instrumentality (including an independent agency or instrumentality), authority, commission, board, department, division, office, body, or officer of the District of Columbia government duly established by an act of the Council or by the laws of the United States, whether established before or after August 5, 1997.

(3) The term "available revenues" means gross revenues and receipts, other than general fund tax receipts, lawfully available for the purpose and not otherwise exclusively committed to another purpose, including enterprise funds, grants, subsidies, contributions, fees, dedicated taxes and fees, investment income and proceeds of revenue bonds, notes, or other obligations issued under this section.

(4) The term "enterprise fund" means a fund or account for operations that are financed or operated in a manner similar to private business enterprises, or established so that separate determinations may more readily

be made periodically of revenues earned, expenses incurred, or net income for management control, accountability, capital maintenance, public policy, or other purposes.

(5) The term "dedicated taxes and fees" means taxes and surtaxes, portions thereof, tax increments, or payments in lieu of taxes, and fees that are dedicated pursuant to law to the payment of the debt service on revenue bonds, notes, or other obligations authorized under this section, the provision and maintenance of reserves for that purpose, or the provision of working capital for or the maintenance, repair, reconstruction or improvement of the undertaking to which the revenue bonds, notes, or other obligations relate.

(6) The term "tax increments" means taxes, other than the special tax provided for in § 1-204.81 and pledged to the payment of general obligation indebtedness of the District, allocable to the increase in taxable value of real property or the increase in sales tax receipts, each from a certain date or dates, in prescribed areas, to the extent that such increases are not otherwise exclusively committed to another purpose and as further provided for pursuant to an act of the Council.

(Dec. 24, 1973, 87 Stat. 809, Pub. L. 93-198, title IV, § 490; Dec. 28, 1977, 91 Stat. 1612, Pub. L. 95-218; Apr. 12, 1980, 94 Stat. 335, Pub. L. 96-235; Dec. 23, 1981, 95 Stat. 1493, Pub. L. 97-105, § 16; Oct. 15, 1982, 96 Stat. 1614, Pub. L. 97-328; Aug. 6, 1996, 110 Stat. 1696, Pub. L. 104-184, §§ 2(a), (b), (c)(1); Aug. 5, 1997, 111 Stat. 773, Pub. L. 105-33, § 11508; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 160(a)(1); July 25, 2013, D.C. Law 19-321, § 2(h), 60 DCR 1724.)

Section references. — This section is referenced in § 1-204.46, § 1-204.48, § 1-204.96, § 1-206.03, § 1-308.01, § 1-308.02, § 1-308.03, § 1-308.07, § 1-325.43, § 2-602, § 2-1217.02, § 2-1217.12, § 2-1217.33b, § 2-1217.33f, § 2-1217.34b, § 2-1217.34e, § 2-1217.71, § 2-1217.77, § 2-1217.79, § 2-1217.102, § 2-1217.103, § 2-1217.104, § 2-1217.132, § 2-1217.133, § 2-1217.137, § 6-209, § 7-1831.03, § 8-1778.02, § 8-1778.21, § 8-1778.22, § 8-1778.24, § 9-107.51, § 9-107.52, § 9-107.53, § 9-107.55, § 9-1108.01, § 10-1202.09, § 10-1221.02, § 10-1221.03, § 10-1601.02, § 10-1601.03, § 10-1602.02, § 10-1602.03, § 34-1311.02, § 34-1312.01, § 34-1312.04, § 34-2202.01, § 34-2202.08, § 42-2702.06, § 42-2812.02, § 42-2812.03, § 42-2812.04, § 44-951.16, § 47-131, § 47-334, § 47-335, § 47-340.01, § 47-340.04, § 47-340.26, § 47-340.27, § 47-340.29, § 47-340.31, § 47-398.06, § 47-1052, § 47-4611, § 47-4613, and § 50-2512.

Effect of amendments.

The 2013 amendment by D.C. Law 19-321 substituted "Section 1-204.46(c)" for "The fourth sentence of § 1-204.46" in (f), (g)(3), (h)(3), and (i)(3).

Legislative history of Law 19-321. — See note to § 1-204.04.

Effective date. — Section 5 of D.C. Law 19-321 provided that the act shall take effect as provided in § 1-203.03.

Editor's notes.

Applicability of D.C. Law 19-321: Section 3 of D.C. Law 19-321 provided that section 2 of the act shall apply as of January 1, 2014.

PART F.

INDEPENDENT AGENCIES AND AUTHORITIES.

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§ 1-204.96. Independent financial management, personnel, and procurement authority of District of Columbia Water and Sewer Authority.

(a) *Financial Management, Personnel, and Procurement Authority.* — Notwithstanding any other provision of this chapter or any District of Columbia law, the financial management, personnel, and procurement functions and responsibilities of the District of Columbia Water and Sewer Authority shall be established exclusively pursuant to rules and regulations adopted by its Board of Directors. Nothing in the previous sentence may be construed to affect the application to the District of Columbia Water and Sewer Authority of § 1-204.45a, § 1-204.51(d), § 1-204.53(c), or § 1-204.90(g) [§ 1-204.90(h)].

(b) *Consistency With Existing Authorizing Law.* — The rules and regulations adopted by the Board of Directors of the District of Columbia Water and Sewer Authority to establish the financial management, personnel, and procurement functions and responsibilities of the Authority shall be consistent with the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, as such Act is in effect as of January 1, 2008.

(Dec. 24, 1973, 87 Stat. 811, Pub. L. 93-198, title IV, § 496, as added July 15, 2008, 122 Stat. 2491, Pub. L. 110-273, § 3(a)(2).)

Subchapter VI. Reservation of Congressional Authority.

§ 1-206.01. Retention of constitutional authority.

Section references. — This section is referenced in § 1-203.02, § 1-203.03, and § 1-204.04.

LAW REVIEWS AND JOURNAL COMMENTARIES

Congressional Oversight of Morality: Sodomy Law Reform in the District of Columbia. Gina M. Smith and Heidi Norton, 2 D.C.L.Rev. 307, (1994).

§ 1-206.02. Limitations on the Council.

Section references. — This section is referenced in § 1-204.04, § 1-204.46, § 1-204.62, § 1-204.72, § 1-204.75, § 1-204.90, § 1-204.105, § 1-207.18, § 1-308.06, § 1-1001.16, § 1-1021.04, § 2-1217.33f, § 2-1217.33i, § 2-1217.34e, § 2-1217.34i, § 2-1217.78, § 2-1217.104, § 2-1217.112, § 2-1217.137, § 2-1217.140, § 6-1115, § 7-228, § 7-840, § 7-1208.07, § 7-1306.05, § 8-1778.24, § 8-1778.27, § 9-107.55, § 9-107.58, § 10-1221.06, § 10-1221.10, § 10-1601.03, § 10-1602.03, § 32-1545, § 34-1312.04, § 34-1312.07, § 34-2202.10, § 42-2812.04, § 42-2812.09, § 44-951.16, § 45-305, § 47-340.04, § 47-340.09, § 47-340.31, § 47-392.02, § 47-392.03, § 47-398.01, § 47-1401, and § 47-1806.04.

LAW REVIEWS AND JOURNAL COMMENTARIES

Balancing Security and Access in the Nation's Capital: Managing Federal Security-Related Street Closures and Traffic Restrictions in the District of Columbia. DC Appleseed Center for Law and Justice, 8 U.D.C.L.Rev. 181 (2004).

Can Home Rule In The District Of Columbia Survive The Chadha Decision?, 33 Catholic University Law Review 811. Go Ahead, State, Make Them Pay: An Analysis Of Washington D.C.'S Assault Weapon Manufacturing Strict Liability Act, 25 Colum. J.L. & Soc. Probs. 313.

Greater Washington Central Labor Council: A Dilution of Home Rule Act Limitations. 32 Cath.U.L.Rev., (1983).

Waters v. Barry: Juvenile Curfews — The D.C. Council's "Quick Fix" For The Drug Crisis, 1 Geo. Mason U. Civ. Rts. L.J. 313.

Subchapter VII. Referendum; Succession in Government; Temporary Provisions; Miscellaneous; Amendments to District of Columbia Elections Act; Rules of Construction; and Effective Dates.

PART D.

MISCELLANEOUS.

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§ 1-207.42. Open meetings.

Section references. — This section is referenced in § 1-129.04, § 1-204.34, § 1-301.49, § 1-309.11, § 2-579, § 3-1102, § 3-1353, § 4-752.03, § 4-1371.08, § 7-2271.04, § 8-671.11, § 8-1774.04, § 10-1202.05, § 16-1056, § 16-4205, § 16-4207, § 34-2202.04, § 44-951.05, and § 47-391.08.

CASE NOTES

School closures.

Guardians' claim under D.C. Code § 1-207.42 related to the decision to close several schools was dismissed where none of the allegations mentioned a failure to hold open, public meetings or specific decisions regarding schools made without public input. Smith v. Henderson, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 146474 (D.D.C. Oct. 10, 2013).

CHAPTER 3. SPECIFIED GOVERNMENTAL AUTHORITY.

Subchapter I. Additional Governmental Powers and Responsibilities

Part A

General

Part B

Subpoenas, Administration of Oaths, and Documents Concerning Police Officers and Firefighters

Part C

The Council

Part D-i

Attorney General for the District of Columbia

Subchapter I. Additional Governmental Powers and Responsibilities.

PART A.

GENERAL.

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§ 1-301.01. Additional powers of Mayor, Council, and Director.

(a) *Waiver of business license renewal fees for personnel of armed forces.* — The Council of the District of Columbia is authorized and empowered within its discretion, in accordance with such regulations as it may make, to provide

for the waiver of payment by any person in the military service of the United States of any annual or other periodic fee required by law to be paid to the District of Columbia or to any District of Columbia board or commission as a condition to retaining or renewing any license or permit to engage in any business or calling or to practice any profession in the District of Columbia.

(b)(1) *Bond requirements for certain businesses; amount; termination of surety's liability; notification by surety of payment on bond; insolvency of surety; action on bond; amount of recovery; certified copy of bond; license examination.* — The Council of the District of Columbia is authorized and empowered within its discretion to make and modify, and the Mayor of the District of Columbia is authorized and empowered within his discretion to enforce, regulations requiring persons, firms, and corporations, other than utility companies, engaged within the District of Columbia in the business of plumbing or gas fitting, or of installing, maintaining, or repairing heating, ventilating, air conditioning, or mechanical refrigerating apparatus, equipment, appliances, systems, or parts thereof, or of installing, maintaining, or repairing apparatus, equipment, fixtures, appliances, or wiring, using or conducting electric current, to furnish and keep in force a bond running to the District of Columbia with corporate surety authorized by the Secretary of the Treasury to do business pursuant to § 9305 of Title 31, United States Code, or by the Insurance Department of the District of Columbia to issue surety bonds in the District of Columbia which meet the statutory capital and surplus requirements or as otherwise determined by the Mayor to be appropriate and necessary in the amount for underwriting such bonds in an amount not exceeding $5,000, conditioned upon the performance in accordance with law and regulations in force in the District of Columbia of all such work undertaken by such person, firm, or corporation, and to keep the District of Columbia harmless from the consequences of any and all acts performed by said person, firm, or corporation in connection with such business during the period covered by the said bond.

(2) The surety on any such bond may terminate its liability under such bond by giving 30 days written notice thereof, served either personally or by registered mail, to the principal and to the Mayor; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of 30 days from the date of service of such notice. Unless on or before the expiration of such period the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the license of the principal to engage in such business shall likewise terminate upon the expiration of such period. Upon making any payment on account of its bond, the surety shall immediately notify the Mayor.

(3) In the event the surety becomes insolvent or a bankrupt, or ceases to be authorized by the Secretary of the Treasury to do business pursuant to § 8 of Title 6, United States Code [see now 31 U.S.C. § 9305], or by the Insurance Department of the District of Columbia, to do business in the District of Columbia, the principal shall, within 10 days after notice thereof, given by the Mayor, duly file a new bond in like amount and conditioned as the original,

and, if the principal shall fail to do so, the license of such principal shall terminate. If a recovery be had on any bond, the principal shall restore the bond to its original amount.

(4) Any person aggrieved by the violation of any law or regulation in force in the District of Columbia relating to such business shall have, in addition to his right of action against said person, firm, or corporation, a right to bring suit against the surety on said bond, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the principal which is in violation of law or regulation in force in the District of Columbia relating to such business: Provided, however, that nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery or recoveries as the case may be.

(5) The Mayor shall furnish to anyone applying therefor a certified copy of any such bond filed with them upon payment of a fee to be fixed by the Mayor therefor, and such certified copy shall be prima facie evidence in any court that such bond was duly executed and delivered by the person, firm, or corporation whose name appears therein.

(6) The Council is further authorized to provide, in accordance with such regulations as it may prescribe, for the examination of the qualifications and fitness of all applicants for licenses to engage in any of the businesses herein enumerated by a board, consisting of not less than 2 persons who have been actively engaged in the District of Columbia for at least 5 years next preceding their appointment in the business for which license is sought (one of whom shall have been an owner or manager and one of whom shall have been an employee competent to superintend the performance of work) and not less than 1 official of the District of Columbia, appointed by the said Mayor: Provided, that nothing herein shall repeal existing law relating to the examination and licensing of master plumbers and gas fitters.

(c) *Leasing powers.* — The Mayor of the District of Columbia is authorized and empowered within his discretion to rent any building or land belonging to the District of Columbia or under the jurisdiction of the Mayor, or any available space therein, whenever such building or land, or space therein, is not then required for the purpose for which it was acquired, and to rent any used personal property belonging to the District of Columbia which is not then needed for the purpose for which it was acquired: Provided, that nothing contained in this subsection shall have the effect of changing in any manner Public Law No. 732, 74th Congress, entitled "An Act to authorize the operation of stands in federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (20 U.S.C. §§ 107-107f).

(d) *Issuance of revocable permits for construction of tunnels, and laying of conduits and pipes.* — The Mayor of the District of Columbia is authorized and empowered within his discretion to grant revocable permits upon such terms, conditions, bonds, and rentals as the Mayor may impose for the construction of tunnels, and the laying of conduits and pipes in the alleys, streets, and avenues in the District of Columbia under the jurisdiction of the Mayor.

(e) *Suspension of officers and employees.* — Except as otherwise provided, the Mayor of the District of Columbia is authorized and empowered within his discretion to suspend, with or without pay, any officer or employee appointed by him and, under such rules or regulations as he may prescribe, to delegate this power to any officers or employees of the District of Columbia.

(f) *Name and rename highways, buildings, public places and property.* — The Council of the District of Columbia is authorized and empowered within its discretion to name or change the name of a highway, circle, bridge, building, park or other public place or property as provided in §§ 9-204.01 through 9-204.09:

(1) Repealed.

(2) The name of any person shall embrace the given name or names as well as the surname of such person and shall be so noted on the records of the Council of the District of Columbia and official records filed with the Surveyor of the District of Columbia.

(g) *Assess and collect fees for copies and transcripts of regulations, permits, certificates and records; disposition of moneys.* — The Mayor of the District of Columbia may fix, assess, and collect fees for copies of orders, regulations, permits, certificates, and transcripts of records furnished by the District of Columbia, including, but not limited to, transcripts of records of births and deaths. Such fees shall not exceed the reasonably estimated cost of providing such copies, certificates, and transcripts, and shall be deposited into the General Fund of the District of Columbia government.

(h) *Penalties for violation of rules and regulations.* — The Council of the District of Columbia is authorized and empowered within its discretion, where not otherwise specifically provided, to prescribe a penalty upon conviction of a violation of any rule or regulation authorized by §§ 1-301.01 to 1-301.05 and 1-301.21 by a fine of not more than $300 or imprisonment of not more than 90 days.

(i) *Purchase and sale of maps and publications; issuance without charge; delegation of authority; payment of cost.* — The Mayor of the District of Columbia is authorized and empowered within his or her discretion:

(1) To purchase and sell maps and to sell copies and subscriptions of the District of Columbia Statutes-at-Large, the District of Columbia Register, the District of Columbia Municipal Regulations, other government publications, and other data and information ("government materials"), including binders for material, at prices the Mayor or his or her designated agent determines to be necessary to approximate the cost of the material, including the cost of distribution. The Mayor shall not charge the Council of the District of Columbia for copies or subscriptions of government materials or any other rule, regulation, or document that has general applicability and legal effect which the Council needs to perform its legislative responsibilities. All receipts from the sale of such material shall be deposited in the General Fund of the District of Columbia;

(2) To issue such material without charge, in the discretion of the Mayor, to officers and employees of the governments of the United States and the District of Columbia, to states, territories, and possessions of the United

States, local governmental units, and foreign governments; to institutions of research and learning; to applicants for, or holders of, particular licenses issued by the District of Columbia; and to any other person when it is determined by said Mayor or his designated agent or agents that it is in the best interest of the District of Columbia to furnish such material without charge; and to delegate to the heads of departments and agencies of the government of the District of Columbia the authority likewise to make the distribution authorized by this paragraph of such material as may be purchased by the departments and agencies. Material to be distributed under the authority of this paragraph shall be supplied to the District of Columbia department or agency proposing to make such distribution, only upon payment by the department or agency of the cost thereof.

(j) *Placement of orders with federal departments and agencies; payment of cost; obligations upon appropriations.* — The Director of the Office of Contracting and Procurement is authorized and empowered in his discretion to place orders, if he determines it to be in the best interest of the District of Columbia, with any federal department, establishment, bureau, or office for materials, supplies, equipment, work, or services of any kind that such federal agency may be in a position to supply or be equipped to render, by contract or otherwise, and shall pay promptly by check to such federal agency, upon its written request, either in advance or upon furnishing or performance thereof, all or part of the estimated or actual costs thereof as determined by such department, establishment, bureau, or office as may be requisitioned; but proper adjustments on the basis of the actual costs of the materials, supplies or equipment furnished or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned. Orders placed as provided in this subsection shall be considered as obligations upon appropriations in the same manner as orders or contracts placed with private contractors.

(j-1) *Placement of orders with the Washington Metropolitan Area Transit Authority.* —

(1) Notwithstanding Chapter 3A of Title 2 [§ 2-351.01 et seq.], the Mayor, or his or her delegate, may contract with the Washington Metropolitan Area Transit Authority for materials, supplies, equipment, work, or services of any kind. Contracts executed pursuant to this subsection shall be considered obligations upon appropriations in the same manner as orders or contracts executed pursuant to subsections (j) or (k) of this section.

(2) For the purposes of this subsection, the District Department of Transportation shall be an authorized delegate.

(k) *Placement of orders with departments, offices, or agencies of the District; payment of cost; obligations upon appropriations.* —

(1) The Mayor may authorize the heads of District departments, offices, and agencies to place orders with any other department, office, or agency of the District for materials, supplies, equipment, work, or services of any kind that the requisitioned department, office, or agency may be in a position to supply or equipped to render; provided, that the Chief Financial Officer shall submit quarterly to the Council and the Mayor the summary required by D.C. Official

Code § 47-355.05(e), along with all Memoranda of Understanding between District agencies involving an exchange of materials, supplies, equipment, work, or services of any kind. The department, office, or agency placing any such orders shall either advance, subject to proper adjustment on the basis of actual cost, or reimburse, such department, office or agency the actual cost of materials, supplies, or equipment furnished or work or services performed as determined by such department, office, or agency as may be requisitioned. Orders placed as provided in this subsection shall be considered as obligations upon appropriations in the same manner as orders or contracts placed with private contractors.

(2) Repealed.

(l) *Leases or permits for use of public space over or under 9th Street Southwest.* — The Mayor of the District of Columbia is authorized and empowered in his discretion to enter into leases of, or to grant revocable permits for the use of, the public space over or under 9th Street Southwest in the District of Columbia to an extent not inconsistent with the use of such street by the general public for the purpose of travel, and in connection with any such lease or permit to impose such terms, including but not limited to the deposit of bond or other security, and to provide for the payment of such rents or fees as the Mayor may, in his discretion, determine to be necessary or desirable, but the Mayor shall, in connection with entering into a lease for, or granting a permit for, the use of public space over said Street in the District of Columbia, provide as a condition of any such lease or permit that such space shall not be used by the lessee or permittee in such manner as to deprive any real property not owned by such lessee or permittee of its easements of light, air, and access.

(Dec. 20, 1944, 58 Stat. 819, ch. 611, § 1; July 2, 1958, 72 Stat. 292, Pub. L. 85-491, §§ 1, 2; Aug. 21, 1959, 73 Stat. 414, Pub. L. 86-178, § 2; Sept. 13, 1960, 74 Stat. 881, Pub. L. 86-743, § 1; Apr. 7, 1977, D.C. Law 1-109, § 2, 23 DCR 8739; Mar. 6, 1979, D.C. Law 2-153, § 5, 25 DCR 6960; June 14, 1980, D.C. Law 3-70, § 7(b), 27 DCR 1776; July 1, 1980, D.C. Law 3-75, § 3, 27 DCR 2277; Oct. 8, 1981, D.C. Law 4-34, § 29(d), 28 DCR 3271; Mar. 10, 1983, D.C. Law 4-201, § 707, 30 DCR 148; Mar. 7, 1991, D.C. Law 8-227, § 2, 38 DCR 224; July 23, 1994, D.C. Law 10-140, § 2, 41 DCR 3053; Apr. 12, 1997, D.C. Law 11-259, § 302, 44 DCR 1423; Oct. 22, 2009, D.C. Law 18-63, § 2, 56 DCR 6601; Apr. 8, 2011, D.C. Law 18-370,§ 123, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 9020(a), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, §§ 6032, 8002, 59 DCR 8025.)

Section references. — This section is referenced in § 1-301.05, § 1-321.02, § 5-121.01, § 10-1101.01, § 47-2844, § 47-2883.02, and § 50-603.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 deleted "the unrestricted fund balance of" following "deposited in" in the last sentence of (i)(1); and added (j-1).

Emergency legislation.

For temporary (90 day) amendment of section, see § 8002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8002 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR

9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes.

Section 8010 of D.C. Law 19-168 provided that §§ 8002, 8003, 8004, 8005, 8006, and 8007 of the act shall apply as of September 14, 2011.

PART B.

SUBPOENAS, ADMINISTRATION OF OATHS, AND DOCUMENTS CONCERNING POLICE OFFICERS AND FIREFIGHTERS.

§ 1-301.21. Subpoena power.

(a)(1) The Mayor of the District of Columbia shall have the power to issue subpoenas to compel witnesses to appear and testify and/or to produce all books, records, papers, or documents in any investigation or examination of any municipal matter with respect to functions transferred to the Mayor by Reorganization Plan No. 3 of 1967 or by the District of Columbia Home Rule Act (Chapter 2 of this title): Provided, that witnesses other than those employed by the District of Columbia subpoenaed to appear before the Mayor shall be entitled to reasonable fees as established by regulations issued by the Mayor of the District of Columbia, but said fees need not be tendered said witnesses in advance of their appearing and testifying and/or producing books, records, papers, or documents.

(2) For the purposes of this subsection, the term "municipal matter" means personnel matters concerning police officers and firefighters of the District of Columbia.

(b) Any willful false swearing on the part of any witness before the Mayor of the District of Columbia as to any material fact shall be deemed perjury and shall be punished in the manner prescribed by law for such offense.

(c) If any witness having been personally summoned shall neglect or refuse to obey the subpoena issued pursuant to subsection (a) of this section, then, in that event, the Mayor of the District of Columbia may report that fact to the Superior Court of the District of Columbia or one of the judges thereof and said Court, or any judge thereof, is empowered to compel obedience to said subpoena to the same extent as witnesses may be compelled to obey the subpoenas of that Court.

(d) The Mayor of the District of Columbia is authorized to administer oaths to witnesses summoned in any investigation or examination as set out in subsection (a) of this section.

(Sept. 26, 1980, D.C. Law 3-109, § 3, 27 DCR 3785; Apr. 30, 1988, D.C. Law 7-104, § 33, 35 DCR 147; June 3, 2011, D.C. Law 18-376, § 2, 58 DCR 944; Sept. 26, 2012, D.C. Law 19-171, § 3, 59 DCR 6190.)

Section references. — This section is referenced in § 7-703.02, § 32-508, and § 41-130.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171

substituted "this subsection" for "this part" in (a)(2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

PART C.

THE COUNCIL.

§ 1-301.41. Definitions.

CASE NOTES

Legislative duties.

Communications between District of Columbia mayor and councilmember regarding District of Columbia employee's demotion and termination were not protected by the District of Columbia's Speech or Debate Clause; such communications did not serve the purpose of gathering information to guide a legislative vote, and concerned an executive, rather than legislative, decision. Payne v. District of Columbia, 2012 WL 1662524 (2012).

§ 1-301.44a. Independence of legislative branch information technology.

(a) No person, including an employee or contractor of the Office of the Chief Technology Officer, or individual employed by or acting on behalf of an official of the Executive branch of the District of Columbia government, shall monitor, access, review, intercept, obtain, use, or disclose to any person or entity a record or electronic communication of a legislative branch agency without the prior express written consent of the Chairman of the Council or the District of Columbia Auditor for their electronic communications.

(b) For the purposes of this section and § 1-301.44b the term:

(1) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, voice, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system, including electronic mail, telecommunications, and wireless or wired network communications.

(2) "Legislative branch agency" means the Council of the District of Columbia and the District of Columbia Auditor.

(c) Persons violating this section shall be subject to a fine of not more than $10,000 or imprisonment of not more than 5 years, or both; provided, that this section shall not apply to the contents of any communication that has been disclosed publicly by the legislative branch agency.

(July 24, 1982, D.C. Law 4-127, § 2a, as added Mar. 3, 2010, D.C. Law 18-111, § 1101, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 6, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-11 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first

and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 1-301.44b. Legislative branch information technology acquisition.

(a) A legislative branch agency may invest in, acquire, use, and manage, independent of the Executive branch, information technology and telecommunications systems and resources, including hardware, software, and contract services.

(b) A legislative branch agency may, independent of the Executive branch, establish, acquire, maintain, and manage electronic mail messaging systems and services, internet access services, and information technology security systems and services.

(July 24, 1982, D.C. Law 4-127, § 2b, as added Mar. 3, 2010, D.C. Law 18-111, § 1101, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 6, 59 DCR 6190.)

Section references. — This section is referenced in § 1-301.44a.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-11 which did not affect this section as codified.

Legislative history of Law 19-171. — See note to § 1-301.44a.

§ 1-301.44c. Disclosure of information to the Council; District of Columbia Auditor; conditions on disclosure.

(a) Notwithstanding any other provision of law, no document or information that the following persons or entities have requested for the purpose of performing their official duties shall be withheld by a subordinate or independent agency, instrumentality, board, or commission, or by an official or employee thereof, based upon a statutory or regulatory provision restricting or prohibiting disclosure to the general public:

(1) The Council;

(2) A Council committee;

(3) A member of the Council acting in an official capacity;

(4) The District of Columbia Auditor; or

(5) An employee of the Office of the District of Columbia Auditor.

(b) Documents or information obtained under subsection (a) of this section shall remain subject to the underlying statutory restrictions and shall not be disclosed to the public or any third party unless permitted by that statute.

(c) Documents or information shall not be disclosed to the Council under subsection (a) of this section if:

(1) A District statute expressly prohibits disclosure of the information to the Council; or

(2) A federal law or regulation requires that the information be withheld from disclosure to the Council in such a manner that it leaves no discretion on the issue.

(d) Disclosure of documents or information under subsection (a) of this

section shall not constitute a waiver of any privilege or exemption that otherwise could lawfully be asserted by the District of Columbia to prevent disclosure to the general public or in a judicial or administrative proceeding.

(July 24, 1982, D.C, Law 4-127, § 2a, as added Mar. 11, 2010, D.C. Law 18-119, § 2, 57 DCR 906; renumbered as § 2c, Sept. 26, 2012, D.C. Law 19-171, § 7, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 4-127, § 2a as D.C. Law 4-127, § 2c.

Legislative history of Law 19-171. — See note to § 1-301.44a.

PART D-i.

ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA.

§ 1-301.82. Appointment of the Attorney General.

(a) Until such time as an Attorney General is elected under § 1-204.35, which time shall not be before January 1, 2018, the Attorney General for the District of Columbia shall be appointed by the Mayor with the advice and consent of the Council pursuant to § 1-523.01.

(b) The Attorney General shall:

(1) Serve a 4-year term to coincide with the term for Mayor; and

(2) Be eligible for reappointment by the Mayor with the advice and consent of the Council, and may serve in a holdover capacity at the expiration of his or her term pursuant to § 1-523.01(c).

(c) This section shall not apply to the incumbent Attorney General on May 27, 2010.

(May 27, 2010, D.C. Law 18-160, § 102, 57 DCR 3012; Dec. 13, 2013, D.C. Law 20-60, § 201, 60 DCR 15487.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 rewrote (a) which read "Until such time as an Attorney General is elected under § 1-204.35, the Attorney General for the District of Columbia shall be appointed by the Mayor with the advice and consent of the Council pursuant to § 1-523.01."

Legislative history of Law 20-60. — D.C. Law 20-60, the "Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-134. The Bill was adopted on first and second readings on July 10, 2013 and Oct. 1, 2013, respectively. Returned without the Mayor's signature on Oct. 22, 2013, it was assigned Act No. 20-207 and transmitted to Congress for its review. D.C. Law 20-60 became effective on December 13, 2013.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of D.C. Law 20-60 provided that § 201 of the act shall apply as of December 13, 2013.

§ 1-301.86a. Contingency fee contracts.

(a)(1) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in claims and other legal matters affecting the interests of the District of Columbia.

(2)(A) Subject to subparagraph (B) of this paragraph, each contract shall include the terms and conditions the Attorney General considers necessary or appropriate, including a provision specifying the amount of any fee to be paid to the private counsel under the contract or the method for calculating that fee.

(B) The amount of the fee payable for legal services furnished under any such contract shall not exceed the fee that counsel engaged in the private practice of law in the District typically charges clients for furnishing similar legal services, as determined by the Attorney General.

(b) Notwithstanding any provision of federal or District of Columbia law, a contract entered into by the District of Columbia pursuant to this section may provide that costs, expenses, and fees that the private counsel charges for legal services are payable from the amount recovered. In such circumstances, the costs, expenses, and fees need not be included in an amount provided in an appropriations law.

(May 27, 2010, D.C. Law 18-160, § 106a, as added Sept. 20, 2012, D.C. Law 19-168, § 3012, 59 DCR 8025.)

Effect of amendments. — D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 1-301.89b. Report on constitutional challenge or District of Columbia Home Rule Act validity challenge.

(a) The Attorney General shall submit a report to the Council of the District of Columbia of any action, suit, or proceeding brought in a court of law in which the Council of the District of Columbia is not a party, and the constitutionality or the validity under Chapter 2 of Title 1 [§ 1-201.01 et seq.], of any District statute, rule, regulation, program, policy, or enactment of any type is questioned, and the Attorney General has been notified pursuant to:

(1) Rule 24(c) of the Superior Court of the District of Columbia Rules of Civil Procedure; or

(2) Rule 5.1(a) of the Federal Rules of Civil Procedure.

(b) The Attorney General shall submit a report to the Council of the District of Columbia of the establishment or implementation of any formal or informal policy by the Attorney General, or any officer of the Office of the Attorney General, to refrain from:

(1) Enforcing, applying, or administering any provision of any District statute, rule, regulation, program, policy, or enactment of any type affecting the public interest of the District of Columbia; or

(2) Defending, either by affirmatively contesting or through refraining from defending, any District statute, rule, regulation, program, policy, or enactment of any type affecting the public interest of the District of Columbia.

(c)(1) A report required under subsection (a) of this section shall be submitted to the Council within 30 calendar days from the date the Attorney General receives notice as provided in subsection (a)(1) or (a)(2) of this section, and

shall contain sufficient information to identify the action, suit, or proceeding underlying the challenge.

(2) A report required under subsection (b) of this section shall be submitted to the Council within 30 calendar days from the date the Attorney General establishes or implements a formal or informal policy, or is made aware of the establishment or implementation of a formal or informal policy, as described in subsection (b) of this section, and shall contain:

(A) The date the formal or informal policy, as described in subsection (b) of this section, was established or implemented; and

(B) A complete and detailed statement describing the policy and identifying the statute, rule, regulation, program, policy, or enactment that is the subject of the policy.

(May 27, 2010, D.C. Law 18-160, § 111, as added Apr. 27, 2013, D.C. Law 19-287, § 2, 60 DCR 2322.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-287 added this section.

Legislative history of Law 19-287. — Law 19-287, the "Council Notification on Enforcement of Laws Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-802. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-654 and transmitted to Congress for its review. D.C. Law 19-287 became effective on April 27, 2013.

PART E.

ADDITIONAL AUTHORITY OF THE DIRECTOR OF THE OFFICE OF CONTRACTING AND PROCUREMENT.

§ 1-301.91. Leasing authority.

(a) The Director of the Office of Contracting and Procurement is authorized to enter into lease agreements with any person, copartnership, corporation, or other entity, which do not bind the government of the District of Columbia for periods in excess of 20 years for each such lease agreement, on such terms and conditions, including, without limitation, lease-purchase, as he deems to be in the interest of the District of Columbia and necessary for the accommodation of District of Columbia agencies and activities in buildings or other improvements which are in existence or are to be constructed by the lessor for such purposes, or on unimproved real property.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(d-1) Repealed.

(e) The estimated maximum cost of any project approved pursuant to this section may be increased by an amount equal to the increase, if any, as determined by the Director of the Office of Contracting and Procurement, in construction or alteration costs, from the date of transmittal of the prospectus to the Council, not to exceed 10% of the estimated gross cost.

(f) Repealed.

(g) The Director of the Office of Contracting and Procurement shall not make any agreement or undertake any commitment that will result in the construction of any building that is to be constructed for lease to, and for predominant use by, the District until the Director of the Office of Contracting and Procurement has established detailed specification requirements for the building and unless the proposal is consistent with the Public Facilities Plan.

(h) Repealed.

(h-1) The Director of the Office of Contracting and Procurement may acquire a new leasehold interest in any building that is proposed to be leased for the predominant use of rentable space by, or constructed for lease to and for predominant use of rentable space by the District government without regard to §§ 2-354.02 and 2-354.03; provided that such leasehold interest is acquired pursuant to a lease negotiated on behalf of the District by a duly licensed commercial real estate broker pursuant to a tenant representative services contract then in effect between the District and the broker.

(i) The Director of the Office of Contracting and Procurement shall inspect every building to be constructed for lease to, and for predominant use by, the District government during the construction of the building in order to determine compliance with the specifications established for the building. Upon the completion of the building, the Director of the Office of Contracting and Procurement shall evaluate the building to determine the extent, if any, of failure to comply with the specifications for the building. The Director of the Office of Contracting and Procurement shall ensure that any contract entered into for a leasehold interest in a building shall contain a provision that permits a reduction in rent during any period that the building is not in compliance with the specifications for the building.

(Jan. 5, 1971, 84 Stat. 1939, Pub. L. 91-650, title VII, § 705(a), (b); Mar. 8, 1991, D.C. Law 8-257, § 2, 38 DCR 969; Apr. 12, 1997, D.C. Law 11-259, § 301, 44 DCR 1423; May 7, 1998, D.C. Law 12-104, § 4, 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, §§ 4, 59(b), 46 DCR 2118; June 11, 1999, D.C. Law 13-7, § 2, 46 DCR 3626; Oct. 20, 1999, D.C. Law 13-38, § 402, 46 DCR 6373; Mar. 16, 2005, D.C. Law 15-238, § 3, 51 DCR 10599; Sept. 26, 2012, D.C. Law 19-171, §§ 4, 202, 59 DCR 6190.)

Section references. — This section is referenced in § 24-261.05 and § 50-2509.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 repealed (d) and (d-1); and substituted "without regard to §§ 2-354.02 and 2-354.03" for "without regard to §§ 2-303.03 and 2-303.04" in (h-1).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

PART I.

CHIEF FINANCIAL OFFICER ADDITIONAL DUTIES.

§ 1-301.152. Contingency cash reserve notification.

Within 3 business days after an allocation from or use of the contingency cash reserve fund established by § 1-204.50a, the Chief Financial Officer shall transmit to the Budget Director of the Council a report of the:

(1) Amount of the allocation or use; and

(2) Purpose of the allocation or use.

(Dec. 24, 2013, D.C. Law 20-61, § 7232, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 7232 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 7232 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 7231 of D.C. Law 20-61 provided that Subtitle W of Title VII of the act may be cited as the "Contingency Cash Reserve Notification Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-301.153. Marriage equality estate tax clarification.

The Chief Financial Officer is directed to make the clarifying changes to all estate tax forms, filing instructions, and regulations necessary to make it clear that all married couples are eligible for estate tax deductions and exclusions, including the spousal exclusion of bequests, whether direct or through trusts, to a surviving spouse, regardless of whether such marriage is recognized under federal law.

(Dec. 24, 2013, D.C. Law 20-61, § 7282, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 7282 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 7282 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-301.152.

Short title. — Section 7281 of D.C. Law 20-61 provided that Subtitle BB of Title VII of the act may be cited as the "Marriage Equality Estate Tax Clarification Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART K.

DISTRICT OF COLUMBIA AUDITOR COMPLIANCE UNIT.

§ 1-301.181. Establishment of a compliance unit.

(a) There is established a compliance unit ("Unit") within the Office of the District of Columbia Auditor.

(b) The Unit shall:

(1) Conduct an audit and report on compliance related to real estate development transactions, agreements, or parcels ("projects") receiving government assistance, which were previously managed by the dissolved National Capital Revitalization Corporation and Anacostia Waterfront Corporation and placed under the management of the Office of the Deputy Mayor for Planning and Economic Development, pursuant to the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act;

(2) Monitor agency contracting and procurement activities to the extent those activities are related to the achievement of the goals set forth in § 2-218.41;

(3) Review quarterly and annual reports required by §§ 2-218.50 and 2-218.53 of each agency;

(4) Monitor third-party contracting and procurement activities to the extent those activities are related to contracting with, and procuring from, certified business enterprises; and

(5) Review any reports as may be required of third parties.

(c) For the purposes of this part, the term "government assistance" means a grant, loan, tax increment financing, or other financial assistance that results in a financial benefit from an agency, commission, instrumentality, or other entity of the District government. The term "government assistance" may also include PILOT financing, a Tax Abatement, a Tax Incentive, or a discounted lease or sale price for District-owned land.

(d) The Unit's audit shall focus on the following compliance requirements:

(1) Requirements related to developer selection and performance guidelines, as defined in the Mayor's source-selection process;

(2) Requirements related to selection of goods and services, as defined in Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.];

(3) Requirements related to living-wage laws pursuant to subchapter X-A of Chapter 2 of Title 2 [§ 2-220.01 et seq.];

(4) Requirements related to contracting with, and procuring goods and services from, Certified Business Enterprises ("CBEs") pursuant to subchapter IX-A of Chapter 2 of Title 2 [§ 2-218.01 et seq.] ("SLDBE Assistance Act");

(5) Requirements related to equity and development participation by CBEs pursuant to the SLDBE Assistance Act;

(6) Requirements related to environmental standards, including Chapter 14A of [§ 6-1451.01 et seq.], Title 6, part B of subchapter XIV of Chapter 12 of Title 2 [§ 2-1226.31 et seq.]; and where applicable, the Leadership in Energy and Environmental Design ("LEED") Green Building Rating System; and

(7) Requirements related to affordable housing mandates, including subchapter II-A of Chapter 10 of Title 6 [§ 6-1041.01 et seq.], the Community Development Block Grant, the Housing Production Trust Fund, the Home Investment Partnerships Program, and the Low-Income Housing Tax Credit program, as applicable.

(June 13, 2008, D.C. Law 17-176, § 2, 55 DCR 5390; Mar. 3, 2010, D.C. Law 18-111, § 2221(a), 57 DCR 181.)

Section references. — This section is referenced in § 1-301.183 and § 2-218.54.

§ 1-301.183. Reporting requirements.

(a) The Unit will conduct its audit after the completion of each project, once the project has received a certificate of occupancy. Each project will only be audited one time.

(b) The Unit's reporting requirements that are submitted to the Council after the completion of the project and at the end of each fiscal year shall include an annual written report, including an executive summary, compiling the Unit's findings, which:

(1) Assesses the compliance and enforcement capacity of each District agency required to monitor and enforce requirements set forth in § 1-301.181(b), including the number of employees still needed to meet those requirements;

(2) Evaluates each project identifying relevant compliance requirements, such as which contract, procurement, or legislative mandates were met, or not met, and reasons for under-compliance or noncompliance; and

(3) Makes recommendations addressing problems with under-compliance and noncompliance with a goal of 100% compliance for all relevant contract, procurement, or legislative mandates.

(c) The Unit shall provide written and oral testimony to the Council on the findings for each project discussed in subsection (b) of this section at oversight hearings that are to be scheduled by the Council Chairperson at the request of the Unit.

(d) The Unit shall make public the names of any contractor found to be under-compliant or noncompliant after a correction period to be determined at the discretion of the Unit on a per-project basis.

(e) If the Unit's findings reveal under-compliance or noncompliance on a given project, the Unit is required to report such findings to the relevant District agency's director and the Council Chairperson. The relevant District agency shall be responsible for enforcing compliance of any violation found.

(f) Annual reports and written testimony from oversight hearings shall be made available to the general public on the Office of the District of Columbia Auditor's website.

(June 13, 2008, D.C. Law 17-176, § 4, 55 DCR 5390; Sept. 26, 2012, D.C. Law 19-171, § 5, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 added "of this section" following "subsection (b)" in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter II. Regulatory Authority.

PART B.

OUTDOOR SIGNS.

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§ 1-303.21. Rules.

(a) The Mayor shall issue, amend, repeal and enforce rules governing the hanging, placing, painting, projection, display, and maintenance of signs on public space, public buildings, or other property owned or controlled by the District and on private property within public view within the District. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved. The rules shall not take effect until approved by the Council.

(b) The rules shall:

(1) Determine the types of signs that shall be allowed and prohibited and establish permit requirements for signs, where appropriate;

(2) Establish standards for the location, size, and illumination of different types of signs;

(3) Allow for the display of signs that contribute to a healthy business environment and civic communication while protecting the health, safety, convenience, and welfare of the public, including protection of the appearance of outdoor space throughout the District;

(4) State the specific requirements for large signs and billboards;

(5) Establish standards for signs on historic sites or in historic areas;

(6) Provide structural requirements for signs to ensure their safety;

(7) Ensure compliance with federal highway requirements;

(8) Provide for the creation of Designated Entertainment Areas to allow for the display of additional signs;

(9) Establish permit fees; and

(10) Be in compliance with section 3107A of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 3107A).

(Mar. 3, 1931, 46 Stat. 1486, ch. 399, § 1; Apr. 27, 2013, D.C. Law 19-289, § 2(a), 60 DCR 2328.)

Section references. — This section is referenced in § 1-303.23.

Effect of amendments. — The 2013 amendment by D.C. Law 19-289 rewrote the section.

Temporary legislation. — Section 2(a) of D.C. Law 19-181 amended § 1-303.21 to read as follows:

"(a) The Mayor shall issue, amend, repeal and enforce rules governing the hanging, placing, painting, display, and maintenance of signs on public space owned or controlled by the District and on private property within public view within the District. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

"(b) The rules shall, at a minimum:

"(1) Determine the types of signs that shall be allowed and prohibited and establish permit requirements for signs where appropriate;

"(2) Establish standards for the location, size, and illumination of different types of signs;

"(3) Allow for the display of signs that contribute to a healthy business environment and civic communication while protecting the health, safety, convenience, and welfare of the public, including protection of the appearance of outdoor space throughout the District;

"(4) State the specific requirements for large signs and billboards;

"(5) Establish standards for signs on historic sites or in historic areas;

"(6) Provide structural requirements for signs to ensure their safety;

"(7) Ensure compliance with federal highway requirements;

"(8) Provide for the creation of Designated Entertainment Areas to allow for the display of additional signs; and

"(9) Establish permit fees and fines and other penalties for violations of the sign rules."

Section 2(b) of D.C. Law 19-181 added the Act of Mar. 3, 1931, ch. 399, § 1a, to read as follows:

"Sec. 1a. Adjudication of infractions of the rules issued pursuant to section 1 shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (D.C. Law 6-42; D.C. Official Code § 8-801.01 et seq.) ("Civil Infractions Act"), and the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code § 8-801 et seq.) ("Litter Control Act"), as applicable. The Mayor may, through rulemaking, establish a schedule of fines and penalties for infractions of these rules that are separate from the fines and penalties imposed under the Civil Infractions Act and the Litter Control Act. These rules shall be subject to Council review and approval as described in section 1."

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by the act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary (90 day) addition, see § 2(b) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary amendment of section, see § 2(a) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable as of October 9, 2012, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

For temporary addition of the Act of March 3, 1931, Ch. 399, § 1a, concerning adjudication of infractions, see § 2(b) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-497, October 26, 2012, 59 DCR 12749), applicable as of October 9, 2012, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Legislative history of Law 19-289. — Law 19-289, the "Sign Regulation Authorization Amendment of 2012," was introduced in Council and assigned Bill No. 19-819. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-656 and transmitted to Congress for its review. D.C. Law 19-289 became effective on Jan. 29, 2013.

Editor's notes. — Section 9 of D.C. Law 19-289 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

§ 1-303.22. License required; fee. [Repealed].

Repealed.

(Mar. 3, 1931, 46 Stat. 1486, ch. 399, § 2; Sept. 14, 1976, D.C. Law 1-82, title I, § 102, 23 DCR 2461; Oct. 5, 1985, D.C. Law 6-42, § 421, 32 DCR 4450; Sept. 26, 1995, D.C. Law 11-52, § 301, 42 DCR 3684; Apr. 20, 1999, D.C. Law 12-261, § 2003(a), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(a), 50 DCR 6913; Apr. 27, 2013, D.C. Law 19-289, § 2(b), 60 DCR 2328.)

Section references. — This section is referenced in § 9-1159 and § 50-921.04.

Temporary legislation. — Section 2(c) of D.C. Law 19-181 repealed this section.

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) repeal of section, see § 2(c) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary repeal of section, see § 2(c) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-499, October 26, 2012, 59 DCR 12749), applicable as of October 9, 2012, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Legislative history of Law 19-289. — See note to § 1-303.21.

Editor's notes.

Section 9 of D.C. Law 19-289 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Applicability of D.C. Law 19-289: Section 10 of D.C. Law 19-289 provided that sections 3, 4, 5, 6, 7, and 8 of the act shall not apply until the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act. Section 2 of D.C. Law 19-289 rewrote §§ 1-303.21 and 1-303.23, and repealed § 1-303.22.

§ 1-303.23. Penalties and enforcement.

(a) Adjudication of infractions of these rules shall be pursuant to Chapter 18 of Title 2 [§ 2-1801.01 et seq.] ("Civil Infractions Act"), and Chapter 8 of Title 8 [§ 8-801 et seq.] ("Litter Control Act"). The Mayor shall enforce the rules applicable to signs on public space, public buildings, and other owned or controlled by the District property under the Litter Control Act and the rules applicable to signs on private property under the Civil Infractions Act. The Mayor may also establish, by rulemaking, a schedule of fines and penalties for infractions of these rules that are separate from the fines and penalties imposed under the Civil Infractions Act and the Litter Control Act. These rules shall be subject to Council review and approval as described in § 1-303.21.

(b) A person or entity, whether as principal, agent, or employee, violating rules issued pursuant to § 1-303.21 or this section shall, upon conviction in the Superior Court of the District of Columbia, be fined no less than $5 nor more than $200 for each offense, and a fine shall be imposed for each day that the violation continues.

(Mar. 3, 1931, 46 Stat. 1486, ch. 399, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570,

Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 457, 32 DCR 4450; Apr. 27, 2013, D.C. Law 19-289, § 2(c), 60 DCR 2328.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-289 rewrote the section.

Temporary legislation. — Section 2(d) of D.C. Law 19-181 amended § 1-303.23 to read as follows:

"(a) In addition to the remedies applicable under section 1a, the Mayor may summarily abate a violation of rules issued under section 1 if the violation presents a hazard to the public. In these circumstances, the permit holder and the owner of the property where the sign is displayed shall be entitled to an expedited hearing within 72 hours after the abatement.

"(b) Unauthorized signs and signs that are otherwise out of compliance with rules issued under section 1 shall be removed within 10 days after the permit holder, or the owner or occupant of the premises where the sign is displayed, receives a written notice of violation from the Mayor. The owner and occupant of the premises where the sign is displayed and the permit holder shall be responsible for removing the sign and may be held responsible for any penalties imposed for the violation. If the owner, occupant, or permit holder fails to remove the sign within the 10-day period and fails to request a hearing, the Mayor may remove the sign and the owner, occupant, and permit holder shall be responsible for the costs of the removal."

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d) of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary amendment of section, see § 2(d) of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-497, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Legislative history of Law 19-289. — See note to § 1-303.21.

Editor's notes. — Section 9 of D.C. Law 19-289 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Subchapter III-A. Comprehensive Plan.

PART A.

GENERAL.

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§ 1-306.07. Zoning conformity.

(a)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, the government shall be subject to zoning.

(2) Any governmental land uses that were either existent or substantially planned, documented, and invested in prior to May 23, 1990, shall not be subject to zoning.

(3) The use of government-owned property on Lot 276 in Square 1282, which is located at 3050 R Street, N.W., as a residential treatment and special education facility for not more than 24 emotionally disturbed children, ages 6 to 12 years, and as a treatment and special education facility for not more than

15 emotionally disturbed children, ages 6-12, who do not reside at the facility, shall not be subject to zoning.

(4) The government's use of property on the former site of the United States Naval Air Station communications facility located in the northeast corner of the east campus of Saint Elizabeths Hospital as a facility to send and receive 911 or other governmental emergency communications shall not be subject to zoning. Any governmental use of this property for other purposes or any non-governmental use of this property shall be subject to zoning or review and approval by the Council.

(b) The Mayor shall within 16 months of April 8, 2011, propose amendments to the zoning regulations or maps to eliminate any inconsistency of the zoning regulations with the Land Use Element of the Comprehensive Plan.

(Mar. 16, 1985, D.C. Law 5-187, § 7, as added May 23, 1990, D.C. Law 8-129, § 3(b)(3), 37 DCR 55; Oct. 6, 1994, D.C. Law 10-193, § 3(b)(3), 41 DCR 5536; Mar. 21, 1995, D.C. Law 10-235, §§ 2(l), 4(b), 42 DCR 30; Apr. 27, 1999, D.C. Law 12-275, § 3(c), 46 DCR 1441; Mar. 8, 2007, D.C. Law 16-300, § 4, 54 DCR 924; Oct. 18, 2007, D.C. Law 17-23, § 2, 54 DCR 8009; Mar. 25, 2009, D.C. Law 17-353, § 171, 56 DCR 1117; Apr. 8, 2011, D.C. Law 18-361, § 202, 58 DCR 908; Sept. 26, 2012, D.C. Law 19-171, § 8, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated the date change made by D.C. Law 18-361 in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter IV. Special Programs.

PART A.

GENERAL.

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§ 1-307.02. District of Columbia medical assistance program.

(a)(1) In accordance with paragraph (2) of this subsection, the Mayor may submit, under title XIX of the Social Security Act (Title XIX) to the Secretary of the United States Department of Health and Human Services, a plan for medical assistance (and any modifications of the plan) to enable the District to receive federal financial assistance under Title XIX for a medical assistance program established by the Mayor under such plan.

(2) Prior to submitting a plan, modification to a plan, or waiver as provided in paragraph (1) of this subsection, or prior to implementing any pending modification or waiver, the Mayor shall submit the plan to the Council for approval. If the Council does not approve or disapprove the submission within 30 days of receipt from the Mayor, the plan shall be deemed approved.

(3) Review and approval by the Council of the Fiscal Year 2010 Budget and Financial Plan shall constitute the Council review and approval required by paragraph 2 of this subsection of any modification or waiver to the state plan required to implement during fiscal year 2010 an initiative to:

(A) Utilize Disproportionate Share Hospital funding to support the transition of individuals into health insurance programs through the modification of the Disproportionate Share Hospital qualification and distribution methodology;

(B) Change service limit methodology for personal care aide services;

(C) Enhance prescription drug utilization and review activities;

(D) Reduce reimbursement rates for prescription drugs to align pharmaceutical spending with national payment trends;

(E) Change methodologies for recovering improper payments;

(F) Obtain available State Children's Health Insurance Program funding for immigrant children and pregnant women;

(G) Shift coverage for unborn children of undocumented immigrants from the D.C. HealthCare Alliance to Medicaid;

(H) Implement a new methodology for fee-for-service inpatient hospital reimbursement; and

(I) Reduce disallowances for public provider agencies.

(4) Review and approval by the Council of the fiscal year 2011 budget and financial plan shall constitute the Council review and approval required by paragraph (2) of this subsection of any waiver, modification to the state plan, or modification to a waiver required during fiscal year 2011 for purposes of implementing federal health care reform initiatives as set forth in the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat. 119; Pub. L. No. 111-148); provided, that the Department of Health Care Finance publishes a copy of any waiver, modification to the state plan, or modification to a waiver available on its website for at least 5 business days prior to submission to the Secretary of the United States Department of Health and Human Services.

(5) Review and approval by the Council of the Fiscal Year 2012 Budget and Financial Plan shall constitute the Council review and approval required by paragraph (2) of this subsection of:

(A) Any modification or waiver to the state plan required to change the methodology used for the reimbursement for single source brand name drugs from the average wholesale price minus 10% to wholesale acquisition cost plus 3%; and

(B) Any modification or waiver to the state plan required to change in whole or in part the level of personal-care services offered as a state plan benefit.

(6) Review and approval by the Council of the Fiscal Year 2013 Budget and Financial Plan shall constitute the Council review and approval required by paragraph (2) of this subsection of any modification or waiver to the state plan required to:

(A) Update the diagnosis-related group ("DRG") grouper the agency uses to pay hospitals for inpatient care and other characteristics of the

reimbursement system, such as base rates, DRG weights, outlier thresholds and transfer policy to adjust the average payment to cost ratio for inpatient care at DRG hospitals from 114% to 98%;

(B) Update the reimbursement methodology model to one based on acuity for Intermediate Care Facilities for the Intellectually Disabled;

(C) Exclude the cost of therapies, including physical therapy, occupational therapy, and speech therapy, from the calculation of the nursing and resident care component of the nursing home rate; and

(D) Transition beneficiaries to the replenishing pharmacy network for antiretroviral medications.

(7) Review and approval by the Council of the Fiscal Year 2014 Budget and Financial Plan shall constitute the Council review and approval required by paragraph (2) of this subsection of any amendment, modification, or waiver of the state plan required to:

(A) Establish a supplemental payment to rectify historic underpayments to District Medicaid hospitals for outpatient and emergency room services;

(B) Implement Title II of the Patient Protection and Affordable Care Act, approved March 23, 2010 (Pub. L. No. 111-148; 124 Stat. 119), to:

(i) Provide for new Modified Adjusted Gross Income eligibility methodologies;

(ii) Streamline the application process;

(iii) Align Medicaid eligibility determinations, renewals, and appeals with eligibility determinations and appeals of cost sharing and advanced premium tax credits for the Health Benefit Exchange;

(iv) Secure enhanced federal medical assistance percentages for newly eligible Medicaid beneficiaries and preventive services, including tobacco cessation;

(v) Provide coverage for former foster care children through age 25;

(vi) Implement presumptive eligibility by hospitals;

(vii) Extend the District's current Section 1115 demonstration for childless adults ages 21 through 64 years with incomes between 133% and up to 200% of the federal poverty level to provide stop-gap coverage for these beneficiaries until the District establishes the basic health plan; and

(viii) Create health homes for chronically ill District residents;

(C) Implement needed reforms to Medicaid-funded, long-term care services and supports, including:

(i) The establishment of a single-point-of-entry system and a standardized, conflict-free assessment tool and process;

(ii) Clarification of eligibility requirements for institutional long-term care services; and

(iii) The creation of new programming, including adult day health services pursuant to Title XIX of the Social Security Act to ensure that District residents may be served in the most integrated setting appropriate to their needs; and

(D) Implement an annual inflation rate adjustment for nursing facilities.

(b)(1) Notwithstanding any other provision of law, the Mayor may take such action as may be necessary to submit such plan to the Secretary and to establish and carry out such medical assistance program, except that in prescribing the standards for determining eligibility for and the extent of medical assistance under the District of Columbia's plan for medical assistance, the Mayor may not (except to the extent required by Title XIX of the Social Security Act):

(A) Prescribe maximum income levels for recipients of medical assistance under such plan which exceed:

(i) The Title XIX maximum income levels if such levels are in effect; or

(ii) The Mayor's maximum income levels for the local medical assistance program if there are no Title XIX maximum income levels in effect; or

(B) Prescribe criteria which would permit an individual or family to be eligible for such assistance if such individual or family would be ineligible, solely by reason of his or its resources, for medical assistance both under the plan of the State of Maryland approved under Title XIX of the Social Security Act and under the plan of the State of Virginia approved under such title.

(2) For purposes of subparagraph (A) of paragraph (1) of this subsection:

(A) The term "Title XIX maximum income levels" means any maximum income levels which may be specified by Title XIX of the Social Security Act for recipients of medical assistance under state plans approved under that title;

(B) The term "the Mayor's maximum income levels for the local medical assistance program" means the maximum income levels prescribed for recipients of medical assistance under the District of Columbia's medical assistance program in effect in the fiscal year ending June 30, 1967; and

(C) During any of the first 4 calendar quarters in which medical assistance is provided under such plan there shall be deemed to be no Title XIX maximum income levels in effect if the Title XIX maximum income levels in effect during such quarter are higher than the Mayor's maximum income levels for the local medical assistance program.

(c) The District state plan required under Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.), shall provide that all persons in the following categories are eligible for Medicaid benefits:

(1) A pregnant woman or an infant under 1 year of age with an income up to 185% of the federal poverty line, as authorized by § 1902(a)(1) of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396a(a)(1));

(2) A child born after September 30, 1983, who has not attained the age of 8 years and whose family income is not more than 100% of the federal poverty line, as authorized by § 1902 of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396a); and

(3) A pregnant woman or a child during a presumptive eligibility period as authorized by § 1902(a) of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396a(a)).

(d)(1) For purposes of this subsection, the term:

(A) "TANF-related Medicaid recipient" means a family that has dependent children under 21 years of age in the home and whose income is not low

enough to qualify for financial assistance, but is low enough to qualify for medical assistance.

(B) "Health maintenance organization" means a public or private organization, operating in the District of Columbia, which contracts with the District government to provide comprehensive health maintenance, preventive and treatment services emphasizing access to primary care for enrolled members of the plan through its own network of physicians and hospitals for a fixed prepaid premium.

(C) "Managed care provider" means either a primary care provider or a health maintenance organization.

(D) "Primary care provider" means a physician, clinic, hospital, or neighborhood health center that is responsible for providing primary care and coordinating referrals, when necessary, to other health care providers.

(E) "Restricted recipient" means a person who has been restricted to one designated primary care provider for a minimum of one year after a finding of abuse or misuse of Medicaid services by the Commission on Health Care Financing.

(2) The Mayor shall establish a plan to mandate enrollment of TANF and TANF-related Medicaid recipients in a managed care program for the purpose of providing access to comprehensive and coordinated health care in an efficient and cost effective manner. The plan shall provide the following:

(A) TANF and TANF-related Medicaid recipients shall select any health maintenance organization with a current contract with the District of Columbia to provide managed care services to TANF and TANF-related Medicaid recipients on a capitated method of payment;

(B) The Mayor shall exclude TANF and TANF-related Medicaid recipients from the managed care program who are:

(i) Residents in a nursing facility or intermediate care facility for persons with intellectual or developmental disabilities;

(ii) Repealed.

(iii) Eligible for Medicaid for a period that is less than 3 months;

(iv) Eligible for a period that is retroactive;

(v) Foster children residing outside the District of Columbia; or

(vi) Restricted recipients.

(C) The Mayor shall assign any TANF and TANF-related Medicaid recipient who does not choose a provider within a reasonable time to a health maintenance organization described in subparagraph (A) of this paragraph.

(D) Repealed.

(E) TANF and TANF-related Medicaid recipients enrolled in a managed care program shall be exempted from any additional co-payment requirements other than those imposed by the Medicaid program.

(F) The Mayor shall develop an education program to fully inform TANF and TANF-related Medicaid recipients about the various managed care programs to ensure better care for recipients while avoiding unnecessary and inappropriate use of hospital based services for preventive and primary care.

(3) In order to participate in the managed care plan, a provider must:

(A) Be a Medicaid qualified provider and be accessible to enrollees on a 24 hours per day, 7 days per week basis. The Mayor shall establish a

monitoring system to ensure that recipients have 24 hours per day, 7 days per week access to their managed care providers and that treatment is provided in a timely manner; and

(B) Have a written contract with the District government which provides detailed information regarding the responsibilities of the managed care provider and the District government for providing or arranging for the provision of, and making payment for all services to which the TANF and TANF-related Medicaid recipient is entitled under the District state Medicaid plan.

(4) The Mayor shall maintain a grievance and appeal process for TANF and TANF-related Medicaid recipients enrolled in a managed care program.

(5) The Mayor shall require that managed care providers, which receive a capitated method of payment, submit adequate assurances to protect the District government against risk in case a provider becomes insolvent.

(6) To implement the requirements of this subsection the Mayor shall:

(A) Amend the District state Medicaid plan pursuant to § 4-204.05; and

(B) Seek and obtain all necessary waivers of federal Medicaid statutes, rules and regulations.

(7) The Mayor shall submit to the Council on an annual basis an assessment of the cost effectiveness of the managed care plan and its impact on the TANF and TANF-related Medicaid recipient's access to care of adequate quality.

(Dec. 27, 1967, 81 Stat. 744, Pub. L. 90-227, § 1; May 15, 1990, D.C. Law 8-124, § 2, 37 DCR 2087; Mar. 17, 1993, D.C. Law 9-247, § 2, 40 DCR 1150; Nov. 25, 1993, D.C. Law 10-65, § 101, 40 DCR 7351; Sept. 26, 1995, D.C. Law 11-52, § 501, 42 DCR 3684; Mar. 26, 1999, D.C. Law 12-175, § 102, 45 DCR 7193; Oct. 20, 1999, D.C. Law 13-38, § 2205, 46 DCR 6373; Apr. 24, 2007, D.C. Law 16-305, § 2, 53 DCR 6198; Mar. 3, 2010, D.C. Law 18-111, § 5031, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 5002, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 5042, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 5152, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-169, § 2, 59 DCR 5567; Dec. 24, 2013, D.C. Law 20-61, § 5042, 60 DCR 12472.)

Section references. — This section is referenced in § 4-204.12, § 4-204.52, § 4-204.61, § 4-801, § 7-761.02, § 7-1131.02, § 7-1811.03, § 44-631, § 44-651, § 47-1261, and § 47-1270.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (a)(6).

The 2012 amendment by D.C. Law 19-169 substituted "intellectual or developmental disabilities" for "mental retardation" in (d)(2)(B)(i).

The 2013 amendment by D.C. Law 20-61 added (a)(7).

Emergency legislation.

For temporary (90 day) amendment of section, see § 5152 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 5152 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 5042 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 5042 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the

Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 5041 of D.C. Law 20-61 provided that Subtitle E of Title V of the act may be cited as the "Medical Assistance Program Amendment Act of 2013".

Editor's notes.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART D-i.

CAPTIVE INSURANCE AGENCIES.

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§ 1-307.81. Definitions.

For the purposes of this part, the term:

(1) "Advisory Council" means the advisory council established by § 1-307.85.

(2) "Agency" means the Captive Insurance Agency.

(2A) "Act of terrorism" shall have the same meaning as provided in § 22-3152(1).

(3) "Captive manager" means the person appointed by the Risk Officer pursuant to § 1-307.84(b) to run the day-to-day affairs of the Agency.

(4) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(4A) "District real property asset" means improved real property owned by the District and includes all structures of a permanent character erected on or affixed to the property.

(5) "Fund" or "Captive Trust Fund" means the Captive Trust Fund established under § 1-307.91.

(6) "Federally qualified health center" shall have the same meaning as provided in section 1861(aa)(4) of the Social Security Act, approved August 14, 1935 (79 Stat. 313; 42 U.S.C. § 1395x(aa)(4)).

(7) "Gap coverage" means coverage for medical malpractice risks of the District's Federally Qualified Health Centers not covered through the Federal Tort Claims Act, approved August 2, 1946 (60 Stat. 847; 15 U.S.C. § 41 et seq.).

(8) "Health center" means a health center or service that:

(A) Has obtained all licenses, permits, and certificates of occupancy or need that are required as a precondition to lawful operation in the District;

(B) Is a tax-exempt organization under section 501(c)(3) of the Internal

Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(C) Is certified by the Commissioner to meet the requirements of this part; and

(D) Accepts and provides services to individuals regardless of ability to pay; provided, that a health center may accept payment from:

(i) Health insurance providers for services rendered, if a patient has such insurance coverage and consents in writing to the filing of a claim for benefits to which the patient is eligible; and

(ii) Patients on a sliding fee scale.

(8A) "Medical malpractice" means professional negligence by act or omission by a health care provider in which the treatment provided falls below the accepted standard of practice in the medical community and causes injury or death to the patient, with most cases involving medical error.

(9) "Operational" means that the Council has approved insurance policies for the health centers covered under part B of this subchapter.

(9A) "Property insurance" means an insurance policy that protects against most risks to property such as earthquakes, floods, acts of terrorism, fires, boiler or machinery failures, business interruptions, pollution, fidelity, builders risk, debris removal, and weather damage.

(10) "Risk Officer" means the Chief Risk Officer, established by Reorganization Plan No. 1 of 2003, effective December 15, 2003 [D.C. Official Code, subchapter XVIII, Chapter 15, Title 1].

(11) "Tail coverage" means liability insurance purchased by an insured to extend the insurance coverage beyond the end of the policy period of a liability policy written on a claims-made basis.

(12) "Volunteer service provider" means any person licensed to practice in the District who provides health-care, rehabilitative, social, or related administrative services:

(A) At a health center;

(B) To or with respect to a patient of the health center; and

(C) Without receiving payment from the District government for the performance of those services.

(July 18, 2008, D.C. Law 17-196, § 2, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(a), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "Captive Insurance Agency" for "District of Columbia Medical Liability Captive Insurance Agency" in (2); substituted "Captive" for "Medical Liability Captive" twice in (5); and added (2A), (4A), (8A), and (9A).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(a) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(a) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(a) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(a) of the Fiscal Year 2014

Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.82. Establishment of the Captive Insurance Agency.

(a) There is established, as a subordinate agency, the Captive Insurance Agency.

(b) The purpose of the Agency is to:

(1) Provide medical malpractice liability insurance policies for health centers, including coverage for the staff, contractors, and volunteer service providers for the services provided at the health centers; and

(2) Provide property insurance for District real property assets.

(c) The liability of the Agency for medical malpractice liability and property insurance policies shall be limited to the funds in the Captive Trust Fund.

(July 18, 2008, D.C. Law 17-196, § 3, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(b), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote the section.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(b) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(b) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.83. Authority of the Agency.

(a) The Agency shall have the authority to:

(1) By delegation from the Mayor, to exercise procurement authority as is necessary or proper to carry out the provisions and purposes of this part, including contract oversight and contracting with:

(A) Other insurance companies, captives, risk pools, re-insurers, and other similar entities;

(B) Similar captives of other states, municipalities, or counties for the joint performance of common administrative functions; and

(C) Persons or other entities for the performance of organizational, management, or administrative functions;

(2) Take such action as necessary:

(A) To avoid the payment of improper claims against the Agency or the coverage provided by or through the Agency;

(B) To recover any amounts erroneously or improperly paid by the Agency;

(C) To recover any amounts paid by the Agency as a result of mistake of fact or law; or

(D) To recover or collect premiums or other amounts due the Agency;

(3) Establish and modify rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the operation of the Agency; provided, that adjustments to rates and rate schedules shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(4) Issue policies of medical malpractice insurance, including tail coverage, in accordance with the requirements of the plan of operation under § 1-307.87;

(4A) Obtain and issue policies of property insurance, in accordance with the requirements of the plan of operation under § 1-307.87;

(5) Appoint appropriate legal, actuarial, audit, and other committees as necessary to provide technical assistance in the operation of the Agency, policy and other contract design, and any other function within the authority of the Agency;

(6) Employ and fix the compensation of employees;

(7) Prepare and distribute certificate of eligibility forms and enrollment instruction forms to health centers;

(8) Provide for reinsurance of risks incurred by the Agency;

(9) Provide for, and employ, cost containment measures and risk management program standards;

(10) Seek and receive grant funding from the United States government, District departments or agencies, and private foundations;

(11) Adopt policies, procedures, rules, and standards as may be necessary or convenient for the operation of the Agency consistent with this part;

(12) Adopt and administer personnel policies and procedures;

(13) Employ its own general counsel and special counsel from time to time, as needed;

(14) Adopt and administer its own procurement and contracting policies and procedures;

(15) Select, retain, and employ professionals, contractors, or agents which are necessary or convenient to enable or assist the Agency in carrying out the purposes of the Agency; and

(16) Provide gap coverage to the District's Federally Qualified Health Centers for medical malpractice risks.

(b) Upon the request of the Risk Officer, the Mayor and the governing officer or body of each instrumentality of the District, by delegation or agreement, may direct that personnel or other resources of a District agency or instrumentality be made available to the Agency on a full cost-reimbursable basis to carry out the Agency's duties. Personnel detailed to the Agency under this subsection shall not be considered employees of the Agency, but shall remain employees of the agency or instrumentality from which the employees were detailed. With the consent of an executive agency, department, or independent agency of the federal government or the District government, the Agency may use the information, services, staff, and facilities of the department or agency on a full cost-reimbursable basis.

(July 18, 2008, D.C. Law 17-196, § 4, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(c), 60 DCR 12472.)

Section references. — This section is referenced in § 1-307.91.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote (a)(1); and added (a)(4A).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(c) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(c) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(c) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(c) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(c) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.85. Advisory Council to the Agency.

(a) There is established an Advisory Council to the Agency to assist and advise the Risk Officer regarding the Agency.

(b) The Advisory Council shall consist of 7 members appointed by the Risk Officer. One member shall represent the District of Columbia Primary Care Association, 2 members shall represent District health centers, 2 members shall have expertise in general property insurance and re-insurance, and 2 members shall have general insurance expertise, whether medical malpractice or general property insurance.

(c) The Risk Officer and the captive manager shall serve as ex officio members of the Advisory Council.

(d) The Risk Officer shall serve as chairperson of the Advisory Council.

(e) Except as provided in subsection (f) of this section, Advisory Council members shall serve terms of 3 years. An Advisory Council member's term shall continue until his or her successor is appointed. The Advisory Council members may be reappointed for additional terms.

(f) The Risk Officer shall determine the terms the initial Advisory Council members shall serve. Three of the Advisory Council members shall serve terms of 2 years, 2 shall serve terms of 4 years, and 2 shall serve terms of 6 years.

(g) Vacancies in the Advisory Council shall be filled by the Risk Officer. Advisory Council members may be removed by the Risk Officer for cause.

(h) Advisory Council members shall not be compensated in their capacity as Advisory Council members, but shall be reimbursed for reasonable expenses incurred in the necessary performance of their duties.

(i) The Advisory Council shall:

(1) Advise the Risk Officer in the general oversight of the Agency;

(2) Assess the needs and interests of the health centers;

(2A) Assess the needs and interests of the District with respect to obtaining property insurance through the Agency; and

(3) Meet at least on an annual basis, at meetings announced by the Risk Officer.

(July 18, 2008, D.C. Law 17-196, § 6, 55 DCR 6261; Mar. 25, 2009, D.C. Law 17-353, § 239, 56 DCR 1117; Dec. 24, 2013, D.C. Law 20-61, § 1032(d), 60 DCR 12472.)

Section references. — This section is referenced in § 1-307.81.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 rewrote (b); and added (i)(2A) and made a related change.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 1032(d) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(d) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.86. Approval of plan of operation by Commissioner; annual report to Commissioner; financial examination.

(a) Prior to the offering and issuance of insurance policies, the Agency shall submit to the Commissioner for approval a plan of operation which meets the requirements of § 1-307.87. The Agency shall also submit to the Commissioner for approval any proposed material changes to the plan.

(b) On or before December 15 of each year, the Agency shall submit to the Commissioner, on a form prescribed by the Commissioner by rule, a report of its financial condition, as prepared by a certified public accountant. The Agency shall file a consolidated report on behalf of each of its segregated accounts. The Agency shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, as supplemented by additional information required by the Commissioner.

(c)(1) The Commissioner, or his designee, may visit the Agency at such times as he or she considers necessary to thoroughly inspect and examine the affairs of the Agency to ascertain:

(A) The financial condition of the Agency;

(B) The ability of the Agency to fulfill its obligations; and

(C) Whether the Agency has complied with the provisions of this part and the rules adopted pursuant thereto.

(2) The Commissioner may require the Agency to retain qualified independent legal, financial, and examination services from outside the Department of Insurance, Securities, and Banking to conduct the examination and make recommendations to the Commissioner. The cost of the examination shall be paid by the Agency.

(July 18, 2008, D.C. Law 17-196, § 7, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(e), 60 DCR 12472.)

Section references. — This section is referenced in § 1-307.88.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "December 15" for "March 2" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 1032(e) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(e) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.87. Plan of operation for the Agency.

(a) The captive manager shall submit to the Risk Officer a plan of operation for the Agency that has been approved by the Commissioner and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the Agency.

(b) The plan of operation shall:

(1) Become effective upon approval in writing by the Commissioner and the Risk Officer;

(2) Establish procedures for the operation of the Agency;

(3) Establish procedures for health centers to qualify to purchase medical malpractice insurance from the Agency;

(4) Establish procedures for offering gap coverage for the District's Federally Qualified Health Centers;

(4A) Establish procedures for the offering of property insurance for District real property assets;

(5) Establish procedures, under the management of the Risk Officer, for the payment of administrative expenses;

(6) Establish procedures for adjustment and payment of claims made under the policies issued by the Agency, including procedures for administrative review and resolution of disputes arising over such claims;

(7) Establish procedures for tail coverage to health centers purchasing medical malpractice liability coverage through the Agency;

(8) Develop standards for the level of subsidies that shall be provided to health centers to offset premiums due to the Agency;

(9) Establish rules, conditions, and procedures for facilitating the reinsurance of risks of participating health centers;

(10) Establish risk management standards to which the health centers shall adhere and auditing procedures for the compliance of risk management standards by health centers;

(11) Establish underwriting guidelines for policyholders; and

(12) Provide for other matters as may be necessary and proper for the execution of the Risk Officer's and the captive manager's respective powers, duties, and obligations under this part.

(July 18, 2008, D.C. Law 17-196, § 8, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(f), 60 DCR 12472.)

Section references. — This section is referenced in § 1-307.83 and § 1-307.86.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (b)(4A).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(d) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(d) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(d) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(f) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(f) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.90. Coverage.

(a) The Agency shall offer:

(1) Health centers medical malpractice insurance that is consistent with coverage offered in the market; and

(2) Property insurance for the benefit of the District for District real property assets consistent with coverage offered in the market.

(b) The insurance policies and coverage offered pursuant to this part shall be established by the Risk Officer with the advice of the Advisory Council and subject to the approval of the Commissioner.

(c) Any policy offered by the Agency shall state that the liability of the Agency shall be limited to the funds in the Captive Trust Fund.

(July 18, 2008, D.C. Law 17-196, § 11, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(g), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote this section.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(e) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(e) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(e) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(g) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(g) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.91. Establishment of the Medical Liability Captive Trust Fund.

(a) There is established as a nonlapsing fund the Captive Trust Fund, which shall be used for the purposes set forth in subsection (b) of this section. All funds deposited in the Fund, and any interest earned thereon, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) The Fund shall be used solely to pay for the costs and expenses of the establishment, operation, and administration of the Agency, which costs and expenses shall include:

(1) The hiring of a captive manager and other professionals to manage and administer the day-to-day operations of the Agency;

(2) The hiring of staff, including a general counsel;

(3) The administration of the day-to-day operations of the Agency;

(4) The payment of claims and losses under policies of insurance to be issued by the Agency;

(5) Reimbursement for reasonable expenses incurred by Advisory Council members in the necessary performance of their duties; and

(6) The costs of the management, administration, and operation of the Fund.

(c) There shall be deposited into the Fund:

(1) All insurance premiums or other revenues which may be received by the Fund;

(2) All funds received under § 1-307.83(a)(10); and

(3) An amount equal to the unobligated balance of amounts appropriated and allocated by section 2055(18) of the Fiscal Year 2007 Budget Support Act of 2006, effective March 2, 2007 (D.C. Law 16-192; 53 DCR 6899).

(d) The funds in the Fund may be invested in private securities and any

other form of investment which is considered appropriate by the Commissioner and the Chief Financial Officer. The Agency shall file each with the Commissioner and the Chief Financial Officer a schedule of the proposed investments of the funds and any material changes thereto.

(July 18, 2008, D.C. Law 17-196, § 12, 55 DCR 6261; Dec. 24, 2013, D.C. Law 20-61, § 1032(h), 60 DCR 12472.)

Section references. — This section is referenced in § 1-307.81 and § 44-633.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 deleted "Medical Liability" preceding "Captive" in (a).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(f) of the Captive Earthquake Property Insurance Temporary Amendment Act of 2013 (D.C. Law 20-9, June 22, 2013, 60 DCR 6407, 20 DCSTAT 1277).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(f) of the Captive Earthquake Property Insurance Emergency Act of 2013 (D.C. Act 20-39, March 20, 2013, 60 DCR 4663, 20 DCSTAT 523).

For temporary (90 days) amendment of this section, see § 2(f) of the Captive Earthquake Property Insurance Congressional Review Emergency Act of 2013 (D.C. Act 20-85, June 19, 2013, 60 DCR 9536, 20 DCSTAT 1441).

For temporary (90 days) amendment of this section, see § 1032(h) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1032(h) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Short title. — Section 1031 of D.C. Law 20-61 provided that Subtitle D of Title I of the act may be cited as the "Captive Insurance Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-307.95. Short title.

This part may be cited as the "Captive Insurance Agency Establishment Act of 2008".

(July 18, 2008, D.C. Law 17-196, § 16a, as added Dec. 24, 2013, D.C. Law 20-61, § 1032(i), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1032(i) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1032(i) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-307.81.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART E.

PAYMENTS IN LIEU OF TAXES.

§ 1-308.01. Definitions.

Section references. — This section is referenced in § 47-1002.

Emergency legislation. — For temporary (90 days) amendment of Section 2(1)(A) of the DOT PILOT Revision Emergency Approval Resolution of 2010, effective February 2, 2010 (Res. 18-389; 57 DCR 1534), see § 8002 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of Section 2(1)(A) of the DOT PILOT Revision Emergency Approval Resolution of 2010, effective February 2, 2010 (Res. 18-389; 57 DCR 1534), see § 8002 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short title. — Section 8001 of D.C. Law 20-61 provided that Subtitle A of Title VIII of the act may be cited as the "Waterfront Park Bond Amendment Act of 2013".

Resolutions.

Resolution 18-389, § 2(1)(A), was amended by D.C. Law 20-61, § 8002.

Subchapter V. Advisory Neighborhood Commissions.

PART A.

GENERAL.

§ 1-309.03. Single-member districts.

Section references. — This section is referenced in § 1-1041.02, § 25-336, and § 25-340.01.

Temporary Addition of Section. — Section 2 of D.C. Law 19-145 establishes boundaries for Advisory Neighborhood Commission areas and single-member districts within Advisory Neighborhood Commission areas.

Section 3 of D.C. Law 19-145 provided:

"Sec. 3. Applicability of boundaries.

"(a) Except as provided in subsection (b) of this section, the ANC and SMD boundaries set forth in section 2(a) shall apply as of January 2, 2013.

"(b) The ANC and SMD boundaries set forth in section 2(a) shall apply for purposes of administering the November 6, 2012 election, including determining qualifications for candidacy and the residence of a person signing a nominating petition for the November 6, 2012 election."

Section 7(b) of D.C. Law 19-145 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) establishment and applicability of Advisory Neighborhood Commission and single-member district area boundaries, see §§ 2, 3 of Advisory Neighborhood Commissions Boundaries Emergency Act of 2012 (D.C. Act 19-341, April 8, 2012, 59 DCR 2788).

For temporary (90 days) amendment of this section, see § 2 of the Advisory Neighborhood Commission 5C Allotments Authorization Emergency Amendment Act of 2014 (D.C. Act 20-297, March 14, 2014, 61 DCR 2564, 20 DCSTAT 3064).

Editor's notes.

District boundaries established: Pursuant to §§ 1-309.03(a), D.C. Law 19-157, § 2, effective July 13, 2102, established the boundaries of both Advisory Neighborhood Commission areas and single-member districts within Advisory Neighborhood Commission areas, and provided full legal descriptions.

Sections 3 and 4 of D.C. Law 19-157 provided:

"Sec. 3. Applicability of boundaries.

"(a) Except as provided in subsection (b) of this section, the ANC and SMD boundaries set forth in section 2(a) shall apply as of January 2, 2013.

"(b) The ANC and SMD boundaries set forth in section 2(a) shall apply for purposes of administering the November 6, 2012 election,

including determining qualifications for candidacy and the residence of a person signing a nominating petition for the November 6, 2012 election.

"Sec. 4. Succession.

"(a) Except as provided in this section, each ANC shall be the successor in interest with regard to any assets, obligations, or agreements of its predecessor previously established by law.

"(b) The successor in interest to any agreement with an ANC as of December 31, 2012 shall be the ANC within whose boundaries the subject of the agreement is located. For purposes of this subsection, the term 'agreement' shall include any voluntary agreement executed pursuant to Title 25 of the District of Columbia Official Code, any agreement relating to a Planned Unit Development, zoning variance, or special exception, and any agreement relating to historic preservation.

"(c)(1) The financial assets of the ANCs in Ward 5 shall be collected on or after December 1, 2012, by the Chief Financial Officer, who shall then redistribute them on an equal per capita basis to the new ANCs in Ward 5 as soon as practicable after January 2, 2013.

"(2) The personal property of each of the ANCs in Ward 5 shall be transferred to the new Ward 5 ANC within which the property was located in 2012.

"(3) The records of each ANC in Ward 5 in 2012 shall not be destroyed by the 2012 ANC but shall be transferred to the appropriate ANC having primary interest in the matter to which the record relates. The financial records of each ANC in Ward 5 shall be transferred to the District of Columbia Auditor.

"(d)(1) The financial assets of ANCs 2C and 6C shall be collected on or after December 1, 2012 by the Chief Financial Officer, who shall then redistribute them on an equal per capita basis to the new ANCs 2C, 6C, and 6E as soon as practicable after January 2, 2013.

"(2) The personal property of ANCs 2C and 6C shall be transferred to the new ANCs 2C, 6C and 6E within which the property was located in 2012.

"(3) The records of ANC 2C and 6C in 2012 shall not be destroyed by the 2012 ANC but shall be transferred to the appropriate ANC having primary interest in the matter to which the records relates.

"(e) The assets, obligations, and records of each 2012 ANC in Ward 7 shall transfer to the new ANC in Ward 7 created by this act that primarily represents the same geographic area.

"(f) The Chief Financial Officer, in coordination with the Office of Advisory Neighborhood Commissions, shall reapportion the quarterly allotments for the periods on or after January 2, 2013 based on the requirements of section 738(e) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; D.C. Official Code § 1-207.38(e)) and the new ANC areas established by this act."

§ 1-309.05. Advisory Neighborhood Commissions — Qualifications of members; nomination by petition.

(a)(1) No person shall be a member of an Advisory Neighborhood Commission unless he:

(A) Is a registered qualified elector actually residing in the single-member district from which he was elected;

(B) Has been residing in such district continuously for the 60 days immediately preceding the day on which he files the nominating petitions as a candidate as such a member; and

(C) Holds no other elected public office.

(2) For the purpose of this subsection, the term "elected public office" means the Office of Mayor of the District of Columbia, Chairman or member of the Council of the District of Columbia, member of the District of Columbia Board of Education, and the Delegate to the House of Representatives.

(b)(1) Candidates for member of an Advisory Neighborhood Commission shall be nominated by a petition:

(A) Prepared and presented to the Board in accordance with regulations of the Board no later than the 90th calendar day before the date of the election in which he intends to be a candidate; and

(B) Signed by not less than 25 registered qualified electors who are residents of the single-member district from which he seeks election.

(2) Such petitions shall be made available by the Board no later than the 120th calendar day before an election for members of an Advisory Neighborhood Commission.

(Oct. 10, 1975, D.C. Law 1-21, § 6, 22 DCR 2068; Oct. 30, 1975, D.C. Law 1-27, § 4, 22 DCR 2472; Sept. 26, 1984, D.C. Law 5-111, § 2(a), (b), 31 DCR 3952; Feb. 5, 1994, D.C. Law 10-68, § 3(a), 40 DCR 6311; June 5, 2012, D.C. Law 19-137, § 201(b), 59 DCR 2542; July 13, 2012, D.C. Law 19-157, § 6, 59 DCR 5598.)

Section references. — This section is referenced in § 1-309.06 and § 1-309.33.

Effect of amendments. — D.C. Law 19-137, in subsec. (b)(1)(A), substituted "90th calendar day" for "60th calendar day"; and, in subsec. (b)(2), substituted "144th calendar day" for "90th calendar day".

D.C. Law 19-157, in subsec. (b)(2), substituted "120th calendar day" for "144th calendar day".

Temporary Amendment of Section.

Section 4 of D.C. Law 19-145, in subsec. (b)(2), substituted "120th calendar day" for "144th calendar day".

Section 7(b) of D.C. Law 19-145 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 4 of Advisory Neighborhood Commissions Boundaries Emergency Act of 2012 (D.C. Act 19-341, April 8, 2012, 59 DCR 2788).

Legislative history of Law 19-137. — Law 19-137, the "Comprehensive Military and Overseas Voters Accommodation Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-356, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 27, 2012, it was assigned Act No. 19-334 and transmitted to both Houses of Congress for its review. D.C. Law 19-137 became effective on June 5, 2012.

Legislative history of Law 19-157. — Law 19-157, the "Advisory Neighborhood Commissions Boundaries Act of 2012", was introduced in Council and assigned Bill No. 19-528, which was retained by the Council. The Bill was adopted on first and second readings on March 20, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-364 and transmitted to both Houses of Congress for its review. D.C. Law 19-157 became effective on July 13, 2012.

§ 1-309.10. Advisory Neighborhood Commissions — Duties and responsibilities; notice; great weight; access to documents; reports; contributions.

Section references. — This section is referenced in § 2-502, § 2-551, § 6-641.09, § 9-425.02, and § 10-801.

CASE NOTES

ANALYSIS

Judicial review.
—Standing, judicial review.
—Sufficiency of findings, judicial review.

Judicial review.

— Standing, judicial review.

Lack of notice to the Advisory Neighborhood Commissioners did not confer standing to challenge several school closings where neither the Commissioners nor any of the children's guardians had alleged sufficient injury based on lack of notice to the Commissioners. Smith v. Henderson, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 146474 (D.D.C. Oct. 10, 2013).

— Sufficiency of findings, judicial review.

Approval of a university's 2011 campus plan was remanded since the District of Columbia

Zoning Commission (Commission) did not acknowledge that the projected increase in on-campus enrollment was over 28 percent and thus it did not adequately confront the Advisory Neighborhood Commissions' (ANC) fundamental concern that an influx of as many as 3,000 additional students in the campus area would cause objectionable conditions for neighboring properties; the Commission also should have addressed whether the ANC's concerns about the university's expansion into the surrounding neighborhood might call for the imposition of a lower cap on enrollment or other restrictions. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's 2011 campus plan was remanded since although the District of Columbia Zoning Commission (Commission) was not under any misimpression as to the university's on-campus housing capacity, the Commission neglected to address the specific recommendation of the District of Columbia Office of Planning that the university actually devote its on-campus housing to the specified percentages of undergraduates, and the Commission's rejection of the Advisory Neighborhood Commissions' enrollment freeze recommendation called for further explanation. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's 2011 campus plan was remanded where the District of Columbia Zoning Commission acknowledged the Advisory Neighborhood Commissions' (ANC) and the District of Columbia Office of Planning's recommendations that the density be lowered and explained with particularity its conclusion that the high density of the East Campus as proposed would not result in objectionable conditions for neighboring properties with regard to pedestrian safety and noise, but did not sufficiently consider the ANCs' concerns about students' use of a playground. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's 2011 campus plan was remanded since although the small difference between a landscape buffer with a depth of 55-60 feet and one of 65 feet did not call for additional explanation, the portion of the university's proposed buffer that would be only 40 feet wide constituted a relatively significant deviation from what the District of Columbia Office of Planning and the Advisory Neighborhood Commissions sought, such that the District of Columbia Zoning Commission (Commission) should have provided a reasoned basis for allowing it; the Commission also should have addressed the recommendation for a fence to keep students out of the buffer zone. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's 2011 campus plan was remanded since the District of Columbia Zoning Commission's (Commission) explanation of its decision regarding the impact of the campus plan on vehicular traffic and the diverging expert opinions presented by the university and the Advisory Neighborhood Commissions (ANC) was cursory, and was descriptive, rather than evaluative; the Commission, however, properly rejected an ANC's trip cap recommendation. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Approval of a university's application to build a dormitory was proper since the reports submitted by the District of Columbia Office of Planning were not inconsistent or mistaken about the design for the dormitory, and an Advisory Neighborhood Commission's concerns about the height of the dormitory and the view of it from Massachusetts Avenue were sufficiently addressed. Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n, 79 A.3d 904, 2013 D.C. App. LEXIS 781 (2013), substituted opinion at 2013 D.C. App. LEXIS 922 (D.C. Nov. 14, 2013), opinion withdrawn by 2014 D.C. App. LEXIS 65 (D.C. Mar. 27, 2014).

Subchapter XI. Special Funds.

PART E.

SCHOOLS MODERNIZATION FUND.

§ 1-325.44. Criteria for use of bond revenue by District of Columbia Public Schools.

Section references. — This section is referenced in § 1-325.43 and § 1-325.45.

Emergency legislation.

For temporary (90 days) school modernization library funding, see § 4122 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) school modernization library funding, see § 4122 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short title. — Section 4121 of D.C. Law 20-61 provided that Subtitle L of Title IV of the act may be cited as the "School Modernization Library Initial Circulation Funding Act of 2013".

Editor's notes. — Section 4122 of D.C. Law 20-61 provided that for any completed school modernization, unexpended capital funds shall first be used to purchase the initial circulation in that school's library before being reprogrammed for any other purpose.

PART I.

FEMS SPECIAL EVENTS FEE FUND.

§ 1-325.81. FEMS Special Events Fee Fund.

(a) There is established as a lapsing fund the FEMS Special Events Fee Fund ("Fund") to be used for the purposes set forth in subsection (b) of this section and into which shall be deposited all fees assessed and collected under § 47-2826 to cover the costs of the Fire and Emergency Medical Services Department in providing services for special events.

(b) The Fund shall be used for expenses related to the Fire and Emergency Medical Services Department's provision of services for special events, including:

(1) Personnel costs;

(2) Equipment;

(3) Supplies;

(4) Training;

(5) Risk reduction; and

(6) Repairs and maintenance of equipment and supplies.

(c) All funds deposited into the Fund shall be used exclusively for the purposes set forth in subsection (b) of this section. Any unexpended monies in the Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(Sept. 18, 2007, D.C. Law 17-20, § 3052, 54 DCR 7052; Sept. 14, 2011, D.C.

Law 19-21, § 9103, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 98(f), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

PART J.

SOLID WASTE DISPOSAL COST RECOVERY SPECIAL ACCOUNT.

§ 1-325.91. Solid Waste Disposal Cost Recovery Special Account.

(a) There is established as a nonlapsing fund the Solid Waste Disposal Cost Recovery Special Account, into which shall be deposited all solid waste disposal transfer fee and disposal fee revenues, less any recycling surcharge, owed and accruing to the District.

(b) All funds deposited into the Solid Waste Disposal Cost Recovery Special Account shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Solid Waste Disposal Cost Recovery Special Account shall be used to defray the expenses of operating, maintaining, and improving the District's solid waste transfer facilities, and to dispose of solid waste delivered to those facilities.

(Sept. 18, 2007, D.C. Law 17-20, § 6013, 54 DCR 7052; Sept. 14, 2011, D.C. Law 19-21, § 9099, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 8006, 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "nonlapsing" for "lapsing" in (a); and in (b), substituted "not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress" for "be used for the purposes set forth in subsection (c) of this section" and deleted the former second sentence, which read: "Any monies not expended at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia."

Emergency legislation.

For temporary (90 day) amendment of section, see § 8006 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8006 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and

assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — Section 8010 of D.C. Law 19-168 provided that §§ 8002, 8003, 8004, 8005, 8006, and 8007 of the act shall apply as of September 14, 2011.

PART Q.

SENIOR HOUSING MODERNIZATION GRANT FUND.

§ 1-325.161. Definitions.

For the purposes of this part, the term:

(1) "Director" means the Director of the Department of Housing and Community Development.

(2) "Fund" means the Senior Citizens Housing Modernization Grant Fund established by § 1-325.162.

(3) "Planned unit development" or "PUD" means a plan for the development of residential, institutional, and commercial developments, industrial parks, urban renewal projects, or a combination of these as defined in section 199 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 199).

(4) "Principal place of residence" means a single-family dwelling in which a person lives in a particular locality with the intent to make it a fixed and permanent home.

(5) "Qualified senior citizen" means the owner of a single-family dwelling located in the District that is his or her principal place of residence who:

(A) Is 65 years of age or older;

(B) Is a resident of the District;

(C) Has resided in his or her principal place of residence for at least 3 years preceding the date of the application for assistance under this part; and

(D) Whose income does not exceed that for a household within the Section 8 low-income guidelines established by the Secretary of the United States Department of Housing and Urban Development pursuant to section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. § 1437f).

(Aug. 12, 2010, D.C. Law 18-218, § 2, 57 DCR 5396; Dec. 24, 2013, D.C. Law 20-61, § 2082(a), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote (1).

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 2082(a) and 2083 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 2082(a) and 2083 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted

on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 2081 of D.C. Law 20-61 provided that Subtitle I of Title II of the act may be cited as the "Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.162. Senior Citizens Housing Modernization Grant Fund.

(a) There is established as a nonlapsing fund the Senior Citizens Housing Modernization Grant Fund ("Fund"). All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) The Fund shall be continually available to the Director for the purpose of providing one-time grants of up to $20,000 to qualified senior citizens to enable them to make repairs and improvements to their single-family dwellings to ensure their health and safety in their principal places of residence. Administration of grants from the Fund shall be exempt from the requirements set forth in part B of subchapter XII-A of this chapter [§ 1-328.11 et seq.].

(c) Deposits into the Fund shall consist of the following:

(1) Payments by developers seeking relief from zoning laws by way of the PUD process, which may be considered part of the required community benefits package of the proposed PUD;

(2) Appropriated funds;

(3) Other District funds; or

(4) Private gifts.

(Aug. 12, 2010, D.C. Law 18-218, § 3, 57 DCR 5396; Dec. 24, 2013, D.C. Law 20-61, § 2082(b), 60 DCR 12472.)

Section references. — This section is referenced in § 1-325.161.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61, in (b), substituted "Director" for "Deputy Mayor," substituted "$20,000" for "$5,000," and added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 2082(b) and 2083 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 2082(b) and 2083 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.161.

Short title. — Section 2081 of D.C. Law 20-61 provided that Subtitle I of Title II of the act may be cited as the "Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.163. Eligibility for grants.

(a) An applicant is eligible for a grant if the applicant is a qualified senior citizen; provided, that the Director shall give priority consideration to lower-income applicants.

(b) To determine the eligibility of an applicant, the Director shall develop an application form.

(c) To apply for a grant under this part, an applicant shall complete the application form and return it to the Director at the time and in the manner in which the Director shall prescribe.

(d) The Director shall verify the contents of the application form to determine if the applicant is eligible for a grant and to determine if the applicant shall receive funding, or be given priority consideration pursuant to subsection (a) of this section.

(e) The Director shall establish rules for payment to qualified home improvement contractors, which may include establishing a list of program-eligible contractors.

(Aug. 12, 2010, D.C. Law 18-218, § 4, 57 DCR 5396; Dec. 24, 2013, D.C. Law 20-61, § 2082(c), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "Director" for "Deputy Mayor" throughout the section; and rewrote (a).

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 2082(c) and 2083 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 2082(c) and 2083 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.161.

Short title. — Section 2081 of D.C. Law 20-61 provided that Subtitle I of Title II of the act may be cited as the "Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.164. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this part within 60 days of December 24, 2013. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Aug. 12, 2010, D.C. Law 18-218, § 5, 57 DCR 5396; Dec. 24, 2013, D.C. Law 20-61, § 2082(d), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added "within 60 days of December 24, 2013" in the first sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 2082(d) and 2083 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 2082(d) and 2083 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.161.

Short title. — Section 2081 of D.C. Law 20-61 provided that Subtitle I of Title II of the act may be cited as the "Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART R.

H STREET RETAIL PRIORITY AREA FUND.

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§ 1-325.171. Definitions.

For the purposes of this part, the term:

(1) "Chief Financial Officer" means the Chief Financial Officer established by § 1-204.24(a).

(2) "DMPED" means the Office of the Deputy Mayor for Planning and Economic Development established by Mayor's Order 99-62 (April 9, 1999).

(3) "Developer Sponsor" shall have the same meaning as provided in § 47-4634(1).

(4) "H Street Real Property Tax Increment Revenue" means the portion of the real property tax imposed by Chapter 8 of Title 47 of the District of Columbia Official Code on real property in the H Street, N.E., Retail Priority Area in any fiscal year that exceeds the amount of the real property tax imposed on the real property in the H Street, N.E., Retail Priority Area in the fiscal year ended September 30, 2007.

(5) "H Street, N.E., Retail Priority Area" means the H Street, N.E., Retail Priority Area as defined in section 2(2) of the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), which includes the parcels, squares, and lots within the area bounded by a line beginning at the intersection of the center lines of Massachusetts Avenue, N.E., Columbus Circle, N.E., and 1st Street, N.E.; continuing northeast along the center line of 1st Street, N.E., to the center line of K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of Florida Avenue, N.E.; continuing southeast along the center line of Florida Avenue, N.E., to the center line of Staples Street, N.E.; continuing northeast along the center line of Staples Street, N.E., to the center line of Oates Street, N.E.; continuing southeast along the center line of Oates Street, N.E., until the point where Oates Street, N.E., becomes K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of 17th Street, N.E.; continuing south along the center line of 17th Street, N.E., to the center line of Gales Street, N.E.; continuing northwest along the center line of Gales Street, N.E., to the center line of 15th Street, N.E.; continuing south along the center line of 15th Street, N.E., to the center line of F Street, N.E.; continuing west along F Street, N.E., to the center line of Columbus Circle,

N.E.; and continuing south and circumferentially along the center line of Columbus Circle, N.E., to the beginning point.

(6) "H Street Retail Developer" means a person or corporation that proposes to, or provides technical assistance to, engage in the business of sale of personal property or services for use or consumption by the purchasers at locations in the H Street, N.E., Retail Priority Area.

(7) "H Street Sales Tax Increment Revenue" means the portion of the sales tax imposed by Chapter 20 of Title 47 on goods and services sold in the H Street, N.E., Retail Priority Area in any fiscal year that exceeds the amount of the sales tax imposed in the H Street, N.E., Retail Priority Area in the fiscal year ended September 30, 2007.

(Apr. 8, 2011, D.C. Law 18-354, § 2, 58 DCR 754; Sept. 20, 2012, D.C. Law 19-168, § 2162(a), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added "or services" in (6).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2162(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2162(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 1-325.91.

§ 1-325.173. H Street, N.E., Retail Priority Area business development.

(a) The Mayor shall publish no later than 120 days after April 8, 2011, and no less than annually after that date, a notice of funding availability to make grants to assist retail development projects which generate new jobs in new or improved existing retail space in the H Street, N.E., Retail Priority Area.

(b)(1) Eligible development projects shall include businesses engaged in the sale of home furnishings, apparel, books, art, groceries, and general merchandise to specialized customers or service-oriented businesses providing a direct service to specialized customers or artistic endeavors, such as art galleries, theaters, or performing arts centers. Special consideration shall be given to businesses that include entrepreneurial and innovative retail elements.

(2) Eligible retail development projects shall not include liquor stores, restaurants, nightclubs, phone stores, or businesses with 20 or more locations in the United States.

(c) Eligibility for retail development projects shall include:

(1) Site control of the property either through fee simple ownership of the site or through an executed contract or lease with the property owner;

(2) Direct frontage on the H Street, N.E., corridor from 3rd Street, N.E., to 15th Street, N.E.;

(3) Repealed;

(4) Execution of a First Source Agreement with the District's Department of Employment Services; and

(5) Adherence to design, construction, and rehabilitation requirements as defined by DMPED.

(Apr. 8, 2011, D.C. Law 18-354, § 4, 58 DCR 754; Sept. 20, 2012, D.C. Law 19-168, § 2162(b), 59 DCR 8025.)

Section references. — This section is referenced in § 1-325.172.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 rewrote (b); and repealed (c)(3), which read: "Total retail space which is not less than 1,200 square feet."

Emergency legislation. — For temporary (90 day) amendment of section, see § 2162(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2162(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 1-325.91.

PART T.

STREETSCAPE LOAN RELIEF FUND.

§ 1-325.191. Streetscape Loan Relief Fund.

Temporary Addition of Section. — Section 2 of D.C. Law 19-246 added provisions concerning authority to reconstruct building projections upon completion of 18th Street streetscape project, to read as follows:

"(a) Upon completion of the 18th Street streetscape project (capital project number SR036A), a building owner or any tenant of the building owner shall be permitted to reconstruct any building projection that existed before the commencement of the streetscape project and that was altered because of the streetscape project; provided, that the building projection is identical to the building projection that existed at the commencement of the streetscape project and the building owner, or the tenants of the building owner, obtains the building and construction permits required by law and pays the associated building and construction permit fees; provided further, that reconstruction of any building projections for which no public space permit has been issued must be reconstructed as a temporary structure.

"(b) For the purposes of this section, the term:

"(1) 'Building projection' means a bay window, staircase, patio, sidewalk café, or other fixture attached to a building and located on public space.

"(2) 'Streetscape project' means a roadway reconstruction on a commercial main street."

Section 4(b) of D.C. Law 19-246 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 days) streetscape reconstruction, see § 2 of the Streetscape Reconstruction Congressional Review Emergency of 2013 (D.C. Act 20-23, March 7, 2013, 60 DCR 3982, 20 DCSTAT 481).

PART V.

NEIGHBORHOOD PARADE AND FESTIVAL FUND.

§ 1-325.211. Neighborhood Parade and Festival Fund established.

(a) There is established as a nonlapsing fund the Neighborhood Parade and Festival Fund ("Fund"), which shall be administered by the Commission on Arts and Humanities, to be used for the purposes set forth in subsection (c) of this section.

(b)(1) Deposits into the Fund shall include:

(A) Federal funds, if any;

(B) Gifts, grants, and donations; and

(C) An annual appropriation of $107,000.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Fund shall be used for parades, festivals, and any other celebrations sponsored by a neighborhood or civic association.

(d) The Commission on Arts and Humanities is authorized to make grants for the purposes described in this section. Grants made under this section shall be administered pursuant to the requirements set forth in part B of subchapter XII-A of this chapter [§ 1-328.11 et seq.].

(Sept. 20, 2012, D.C. Law 19-168, § 2033, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 2002(b), 60 DCR 12472.)

Section references. — This section is referenced in § 39-204.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "Commission on Arts and Humanities" for "Deputy Mayor for Planning and Economic Development" in (a); added (b)(1)(C) and made related changes; and added (d).

Emergency legislation. — For temporary addition of section, see § 2033 of the Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary addition of section, see § 2035 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 2002(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 2002(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 2001 of D.C. Law 20-61 provided that Subtitle A of Title II of the act may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART W.

INNOVATION FUND.

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§ 1-325.221. Definitions.

For the purposes of this part, the term:

(1) "Fund" means the Innovation Fund established in § 1-325.222.

(2) "Grant-managing entity" means the Community Foundation for the National Capital Region pursuant to § 1-325.225.

(Dec. 24, 2013, D.C. Law 20-61, § 1012, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1012 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1012 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1011 of D.C. Law 20-61 provided that Subtitle B of Title I of the act may be cited as the "Innovation Fund Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.222. Innovation Fund.

(a) There is established an Innovation Fund ("Fund") to provide subgrants to nonprofit organizations in education, job training, health, services for seniors, arts, public safety, and the environment.

(b) The Mayor shall make a grant to a single grant-managing entity of which at least 94% shall be used to make subgrants for the purpose of promoting a growing economy, educational improvement, increasing sustainability, and improving the quality of life for all residents. The remaining 6% shall be utilized for administrative expenses and evaluation of the Fund.

(c) The Fund is designed to provide subgrants to nonprofits in education, job training, health, services for seniors, arts, public safety, and the environment. The funds shall be available for conveyance to a grant-managing entity for the purposes identified in subsection (b) of this section.

(d) Subgrants shall be awarded, subject to the availability of funding, as follows:

(1) All subgrants shall be awarded on a competitive basis;

(2) The subgrants shall not exceed $100,000 per year;

(3) Capacity-building subgrants are one-time and can be carried over for a maximum of 3 years;

(4) Program-development subgrants are limited to a maximum of 3 years and contingent on first-year grant outcomes;

(5) The subgrant funds shall be used exclusively to serve District of Columbia residents;

(6) Independent review panels shall be used as part of the subgrant selection process; and

(7) All subgrants shall be subject to District transparency requirements, such as Freedom of Information Act requests.

(e) The Fund shall be administered pursuant to the requirements set forth in part B of subchapter XII-A of this chapter [§ 1-328.11 et seq.].

(Dec. 24, 2013, D.C. Law 20-61, § 1013, 60 DCR 12472.)

Section references. — This section is referenced in § 1-325.221 and § 1-325.223.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1013 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1013 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.223. Required information before approval.

(a) To be eligible to receive a subgrant from the grant-managing entity pursuant to § 1-325.222, a subgrantee shall submit the following required documentation to the grant-managing entity as well as any additional information required by the grant-managing entity:

(1) Internal Revenue Service certification that the organization is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(2)(A) The organization's most recent financial audit, not more than 2 years old; or

(B) A recent financial statement, not more than one year old, prepared by a certified accountant that shows that the organization is in good financial standing and which delineates its:

(i) Existing assets and liabilities;

(ii) Pending lawsuits, if any; and

(iii) Pending and final judgments, if any;

(3) Internal Revenue Service Form 990 covering the organization's most recently completed fiscal year;

(4) A notarized statement from the subgrantee certifying that:

(A) The organization is current on District and federal taxes;

(B) The grant-managing entity is authorized to verify the organization's tax status with the Office of Tax and Revenue and the Office of Tax and Revenue is authorized to release this information to the grant-managing entity;

(C) The grant-managing entity shall have access to the financial, administrative, and operational records, including specific consent for the grant-managing entity to access its books, accounts, records, findings, and documents related to the subgrant; and

(D) The subgrantee is registered with the Department of Consumer and Regulatory Affairs; and

(5) A comprehensive program statement that includes a detailed:

(A) Scope of work; and

(B) Budget that describes how the subgrant funds shall be spent.

(Dec. 24, 2013, D.C. Law 20-61, § 1014, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1014 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1014 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.224. Reporting requirements.

Beginning January 2, 2015, the grant-managing entity shall submit an annual report to the Mayor and the Council of all District funds allocated, which includes:

(1) Detailed subgrantee data;

(2) Performance measures and performance outcomes under each subgrant;

(3) The specific services provided under each subgrant;

(4) The entity providing the services, if one other than the subgrantee;

(5) The time period of delivery of the services;

(6) The type of service provided;

(7) The actual amount paid for the services; and

(8) The amount of other expenditures under the subgrant, if any.

(Dec. 24, 2013, D.C. Law 20-61, § 1015, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1015 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1015 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.225. Authorization for grant-managing entity.

For fiscal years 2014, 2015, and 2016, the Community Foundation for the National Capital Region ("Community Foundation") is designated as the grant-managing entity. The Community Foundation shall be required to enter into a Memorandum of Understanding ("MOU") with the District of Columbia government. The MOU shall set forth certain administrative requirements for the Community Foundation to abide by when it obtains District funds and awards subgrants involving District funds, and will clarify and reaffirm the Community Foundation's responsibility and obligation with respect to District funds, including the monitoring of the use of District funds.

(Dec. 24, 2013, D.C. Law 20-61, § 1016, 60 DCR 12472.)

Section references. — This section is referenced in § 1-325.221.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1016 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1016 of the Fiscal Year 2014 Budget Support Congressional Review Emer-

gency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-325.226. Limitation on duplicative projects.

(a) The grant-managing entity shall take steps to avoid awarding subgrants to a nonprofit that has been awarded or is being awarded funds from the DC Children and Youth Investment Trust Corporation ("Trust") for the same or similar program purposes for which it is applying for funding from the Fund.

(b) Within 30 days after the effective date of the MOU, the grant-managing entity shall provide to the Mayor, or his or her designee, and the Council, a plan that sets forth procedures for avoiding the award of duplicative funds from the Trust and the Fund.

(Dec. 24, 2013, D.C. Law 20-61, § 1017, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1017 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1017 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART X.

BANK FEES SPECIAL FUND.

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§ 1-325.231. Bank Fees Special Fund.

(a) There is established as a special fund the Bank Fees Special Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

(b) Beginning October 1, 2013, the following sources shall be deposited into the Fund:

(1) All interest earned on public funds under the custody of the Chief Financial Officer in a general fund account that is not otherwise restricted; and

(2) Such amounts from the unassigned General Fund of the District of Columbia balance as may be required to pay bank fees and charges, as they come due, in excess of the interest earned on public funds as described in paragraph (1) of this subsection.

(c) The Fund shall be used to pay bank fees and charges.

(Dec. 24, 2013, D.C. Law 20-61, § 7042, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 7042 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this

section, see § 7042 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Short title. — Section 7041 of D.C. Law 20-61 provided that Subtitle D of Title VII of the act may be cited as the "Bank Fees Special Fund Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

PART Y.

BANK FEES SPECIAL FUND.

§ 1-325.241. WMATA Momentum Fund.

[Applicable upon passage of Marketplace Fairness Act of 2013].

(Dec. 24, 2013, D.C. Law 20-61, § 7314, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see §§ 7314 and 7315 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see §§ 7314 and 7315 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Short title. — Section 7311 of D.C. Law 20-61 provided that Subtitle EE of Title VII of the act may be cited as the "Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 7315 of D.C. Law 20-61 provided that §§ 7311 through 7315 of the act shall apply as of as of the effective date of the Marketplace Fairness Act of 2013, passed by the Senate on May 6, 2013 (S. 743). The Marketplace Fairness Act of 2013 [2013 S. 743] had not become a public law as of Dec. 24, 2013.

PART Z.

SCHOOLS TECHNOLOGY FUND.

§ 1-325.251. Schools Technology Fund.

(a) There is established as a special fund the Schools Technology Fund ("Fund"), which shall be administered by the Office of the State Superintendent of Education in accordance with subsection (c) of this section.

(b) The Fund shall consist of appropriated amounts.

(c)(1) The Fund shall be used to improve technology at District of Columbia Public Schools and District of Columbia Public Charter Schools.

(2) For fiscal year 2014, the Office of the State Superintendent of Education shall distribute the amounts in the fund to local education agencies ("LEAs") on a per-pupil basis, based on the Fall 2012 audited enrollment.

(3) In fiscal year 2015 and each fiscal year thereafter, the Office of the State Superintendent of Education shall distribute any amounts in the fund to LEAs on a per-pupil basis, based on the audited enrollment for the preceding school year.

(Dec. 24, 2013, D.C. Law 20-61, § 10005, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 10005 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 10005 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Short title. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Editor's notes. — Section 10001 of D.C. Law 20-61 provided that Title X of the act may be cited as the "Revised Revenue Estimate Adjustment Allocation Act of 2013".

PART AA.

END HOMELESSNESS FUND.

§ 1-325.261. End Homelessness Fund.

(a) There is established as a special fund the End Homelessness Fund ("Fund"), which shall be administered by the Department of Human Services in accordance with subsection (c) of this section.

(b) The Fund shall consist of 50% of the revenue from the automated traffic enforcement program, to the extent that the revenue is offset by revenue from a tax imposed by Chapter 39A of Title 47 [§ 47-3931 et seq.] on sales made via the Internet, and interest earned on that revenue, but not to exceed $50 million in a fiscal year.

(c) The Fund shall be used to end homelessness in the District, as set forth in a plan and legislation prepared by the Director to End Homelessness and the Interagency Council on Homelessness and transmitted to the Council for enactment. No moneys may be used from the Fund to supplant existing funding for programs already in existence.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Dec. 24, 2013, D.C. Law 20-61, § 5192, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 5192 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 5192 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-325.221.

Short title. — Section 5191 of D.C. Law 20-61 provided that Subtitle R of Title V of the act may be cited as the "End Homelessness Fund Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter XII. Customer Service Operations.

PART C.

OFFICE OF UNIFIED COMMUNICATIONS.

§ 1-327.56a. Authorized use of 911.

(a) The District's 911 call system shall be reserved exclusively for emergency calls.

(b) The Mayor shall not use the 911 call system for administrative purposes, for placing outgoing calls, or for receiving non-emergency calls.

(c) Upon March 19, 2013, the Mayor shall publicize that the 911 call system shall be used exclusively for emergency calls. Any current or future publication or outreach conducted by the Mayor related to the 911 call system shall comply with the requirements of this section.

(Dec. 7, 2004, D.C. Law 15-205, § 3207a, as added Mar. 19, 2013, D.C. Law 19-248, § 2, 60 DCR 112.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-248 added this section.

Legislative history of Law 19-248. — Law 19-248, the "911 Purity Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-139. The Bill was adopted on first reading on Nov. 15, 2012. Deemed approved without the signature of the Mayor on Dec. 21, 2012, it was assigned Act No. 19-578 and transmitted to Congress for its review. D.C. Law 19-248 became effective on Mar. 19, 2013.

Subchapter XII-A. Grant Administration.

PART A.

GRANT TRANSPARENCY.

§ 1-328.01. Grant transparency.

Section references. — This section is referenced in § 1-333.12.

Editor's notes. — Section 4003 of D.C. Law 19-168 provided:

(a) Notwithstanding any other provision of law, the District of Columbia Public Schools may make competitive grants to charitable organizations for fiscal year 2013 as follows:

"(1) An amount of $100,000 for a journalism mentorship program in the District of Columbia Public Schools; and

"(2) An amount of $100,000 for a mathematics literacy program in the District of Columbia Public Schools.

"(b) Notwithstanding the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 et seq.), and the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01), the allocations described in subsection (a) of this section shall not be construed to create an obligation to provide additional funding to any local education agency except the District of Columbia Public Schools."

§ 1-328.03. Voting rights and statehood grants.

Temporary Addition of Section. — Section 2 of D.C. Law 19-130 added a provision to read as follows:

"Sec. 2. Workforce job development grant-making authority.

"(a) The Director of the Department of Employment Services ('DOES') may issue grants to individuals and organizations from the funds made available to the DOES pursuant to local appropriations or the federal Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C § 2822), for workforce development purposes, including increasing occupational skills, job retention, employment opportunities, and earnings of the District's workforce pursuant to:

"(1) Section 2 of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241);

"(2) Section 2a of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-242);

"(3) Section 203 of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 32-752);

"(4) Sections 2102 and 2103 of the Transitional Employment Program and Apprenticeship Initiative Establishment Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code §§ 32-1331 and 32-1332); and

"(5) Section 11 of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1610).

"(b) Notwithstanding the provisions of D.C. Official Code § 47-368.06, grants that may be issued pursuant to this section include grants that the Mayor, Director of the DOES, or an agency receives through an intra-District transfer, a memorandum of understanding, or a reprogramming from an agency lacking grant-making authority.

"(c) The Director of the DOES may issue rules to implement the provisions of this act."

Section 4(b) of D.C. Law 19-130 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) addition of section, see § 2 of Workforce Job Development Grant-Making Authority Congressional Review Emergency Act of 2012 (D.C. Act 19-377, May 30, 2012, 59 DCR 6609).

For temporary (90 days) workforce job development grant-making, see § 2 of the Workforce Job Development Grant-Making Authority Congressional Review Emergency Act of 2013 (D.C. Act 20-9, February 20, 2013, 60 DCR 3954, 20 DCSTAT 460).

For temporary (90 days) workforce job development grant-making, see § 2 of the Workforce Job Development Grant-Making Authority Second Congressional Review Emergency Act of 2013 (D.C. Act 20-55, April 22, 2013, 60 DCR 6390, 20 DCSTAT 1403).

§ 1-328.04. Deputy Mayor for Planning and Economic Development grant-making authority.

(a) The Deputy Mayor for Planning and Economic Development ("Deputy Mayor") shall have grant-making authority for the purpose of providing:

(1) Funds in support of the Skyland project;

(2) Commercial revitalization services for properties adjacent to the Skyland project; and

(3) Repealed;

(4) Funds for the creation of affordable housing for District residents.

(b) The Deputy Mayor may make grants for fiscal year 2013 as follows:

(1) An amount of $100,000 for sector consultants;

(2) An amount of $350,000 for local business promotion;

(3) An amount of $75,000 for regional economic development;

(4) An amount of $50,000 for the Bank on DC program;

(5) An amount of up to $700,000 for the purpose of providing interior tenant improvement assistance to an entity that agrees to operate a table service restaurant at 3220 Pennsylvania Avenue, S.E., also commonly known as the Penn Branch Shopping Center; and

(6) An amount of $800,000 for the purpose of providing assistance to a

mixed- use development located in Ward 7, including 100% affordable housing units supporting former Lincoln Heights residents.

(b-1)(1) The Deputy Mayor may make grants for fiscal year 2014 as follows:

(A) An amount of $100,000 for sector consultants;

(B) An amount of $350,000 for local business promotion;

(C) An amount of $75,000 for regional economic development; and

(D) An amount of $50,000 for increasing access to financial services and products to unbanked and under-banked residents.

(2) Grants made pursuant to this subsection shall be administered pursuant to the requirements set forth in part B of subchapter XII-A of this chapter [§ 1-328.11 et seq.].

(c) In addition to the grant-making authority provided in subsection (a)(4) of this section, the Deputy Mayor shall have the authority to issue loans for the creation of affordable housing for District residents.

(Sept. 20, 2012, D.C. Law 19-168, § 2032, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 2002(a), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 repealed (a)(3); and added (b-1).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Deputy Mayor Planning and Economic Development Limited Grant-Making Authority Temporary Amendment Act of 2013 (D.C. Law 20-12, July 13, 2013, 60 DCR 7238, 20 DCSTAT 1759).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2 of the Deputy Mayor Planning and Economic Development Limited Grant-Making Authority Emergency Act of 2013 (D.C. Act 20-48, April 12, 2013, 60 DCR 5770, 20 DCSTAT 1354).

For temporary (90 days) amendment of this section, see § 2 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Congressional Review Emergency Act of 2013 (D.C. Act 20-132, July 30, 2013, 60 DCR 11529, 20 DCSTAT 1971).

For temporary (90 days) amendment of this section, see § 2002(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 2002(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 2001 of D.C. Law 20-61 provided that Subtitle A of Title II of the act may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.05. Workforce job development grant-making authority.

(a) The Director of the Department of Employment Services ("DOES") may issue competitive grants to individuals and organizations from the funds made available to the DOES pursuant to local appropriations or, in coordination with the Workforce Investment Council, pursuant to the federal Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C § 2822), for workforce development purposes, including increasing occupational skills,

job retention, employment opportunities, and earnings of the District's workforce pursuant to:

(1) Section 32-241;

(2) Section 32-242;

(3) Section 32-752;

(4) Sections 32-1331 and 32-1332; and

(5) Section 32-1610.

(b) Notwithstanding the provisions of § 47-368.06, grants that may be issued pursuant to this section include grants that the Mayor, Director of the DOES, or an agency receives through an intra-District transfer, a memorandum of understanding, or a reprogramming from an agency lacking grant-making authority.

(c) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this section.

(d) By July 30, 2013, the Director of DOES shall submit to the Council a report providing an analysis of, and corrective actions for any problems pertaining to, the following issues related to contracting and procurement processing with DOES:

(1) The procedures through which DOES processes and issues grants;

(2) The average timeframe in which a contract is processed; and

(3) The common delays to grant issuance.

(Apr. 23, 2013, D.C. Law 19-269, § 2, 60 DCR 2136.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 2 of the Workforce Job Development Grant-Making Authority Second Congressional Review Emergency Act of 2013 (D.C. Act 20-55, April 22, 2013, 60 DCR 6390, 20 DCSTAT 1403).

Legislative history of Law 19-269. — Law 19-269, the "Workforce Job Development Grant-Making Authority Act of 2012," was introduced in Council and assigned Bill No. 19-619. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 25, 2013, it was assigned Act No. 19-648 and transmitted to Congress for its review. D.C. Law 19-269 became effective on April 23, 2013.

Editor's notes. — Sunset provision: Section 3 of D.C. Law 19-269 provided that the act shall sunset 2 years after April 23, 2013.

PART B.

GRANT ADMINISTRATION.

§ 1-328.11. Definitions.

For the purposes of this part, the term:

(1) "Grant program" means the management or administration by a grantor of grant-making or grant-issuing authority as covered by this part.

(2) "Grantee" means the person that receives funds under a grant program.

(3) "Grantor" means a District agency, board, commission, instrumentality, or program designated by law as the grant-managing entity for a grant program.

(Dec. 24, 2013, D.C. Law 20-61, § 1092, 60 DCR 12472.)

Section references. — This section is referenced in § 1-325.162, § 1-325.211, § 1-325.222, § 1-328.04, § 2-1313, § 2-1373, § 2-1392, § 7-736.01, § 7-1141.06, and § 32-1603.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1092 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1092 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.12. Applicability of requirements on grants.

Notwithstanding any other provision of law, and except where the law establishing authority for the grant exempts or modifies the requirements of this part by specific reference, any grant-making or grant-issuing authority established under D.C. Law 20-61, shall be administered pursuant to the requirements of this subchapter.

(Dec. 24, 2013, D.C. Law 20-61, § 1093, 60 DCR 12472.)

Section references. — This section is referenced in § 1-328.13.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1093 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1093 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — "D.C. Law 20-61" referred to in this section, is the Fiscal Year 2014 Budget Support Act of 2013, codified in various sections of this code.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.13. Requirements for award of grants.

(a) Any grant of $50,000 or more that is made pursuant to an authority described in § 1-328.12 shall be awarded on a competitive basis and solely for the purpose or purposes identified in the statute establishing the grant-making or grant-issuing authority.

(b) Before providing notice of the availability of grant funds as required by subsection (c) of this section, a grantor shall establish criteria or standards for the selection of a grantee or grantees under the grant program, and shall set priorities among those criteria or standards.

(c) A grantor shall publish notice in the District of Columbia Register for a minimum of 14 days in advance of making or issuing a grant of the following:

(1) A detailed description of the availability of grant funds, including the

amount, the number of likely grant awards to be made, and any limitations or requirements on the use of such grant funds;

(2) Eligibility requirements for receiving funds under the grant program, including the requirements in § 1-328.14;

(3) Selection criteria for the awarding of funds under the grant program;

(4) A description of the application process under the grant program, including the date after which applications will no longer be received; and

(5) The date that final determination of grant awards will be made.

(Dec. 24, 2013, D.C. Law 20-61, § 1094, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1094 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1094 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.14. Requirements for administration of grant programs.

A grantor administering a grant program covered by this part shall:

(1) Within 30 days from the closing date of the grant application process, provide notification to all applicants of the acceptance or rejection of their applications for the grant funds; and

(2)(A) Maintain records of any written communications as well as a description of any other communications, including telephonic or face-to-face communications, between the grantor and any District government official or staff regarding:

(i) The development of the selection criteria or eligibility requirements;

(ii) Selection by the grantor of a grantee; or

(iii) Issues with a grantee's compliance with grant-program requirements.

(B) Records required under this paragraph shall be provided, upon request, within a reasonable time, to the Mayor, or his or her designee, or to a member of the Council.

(Dec. 24, 2013, D.C. Law 20-61, § 1095, 60 DCR 12472.)

Section references. — This section is referenced in § 1-328.13.

Emergency legislation. — For temporary (90 days) addition of this section, see § 1095 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1095 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.15. Eligibility requirements for receiving grants.

In addition to any other eligibility requirements provided under the enabling statute of the grant program, to be eligible to receive funds under a grant program covered by this part, an individual or entity must be current on all taxes and liabilities owed to the District, or have a plan to resolve such taxes and liabilities that is satisfactory to the grantor.

(Dec. 24, 2013, D.C. Law 20-61, § 1096, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1096 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1096 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-328.16. Reporting requirements.

Beginning in 2014, a grantor managing a grant program covered by this part shall submit a report to the Mayor and the Council by November 1 of each year containing the following information:

(1) All funds allocated pursuant to a grant program in the previous fiscal year;

(2) The type of services and a timeline for delivery of services for the grant; and

(3) Performance measures and performance outcomes for each grant issued during the previous fiscal year.

(Dec. 24, 2013, D.C. Law 20-61, § 1097, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) addition of this section, see § 1097 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 1097 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-328.11.

Short title. — Section 1091 of D.C. Law 20-61 provided that Subtitle J of Title I of the act may be cited as the "Grant Administration Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter XV. Miscellaneous.

§ 1-333.10. Discretionary funds.

(a) The Mayor of the District of Columbia, the Chairman and members of the Council of the District of Columbia, the Chief Judge of the District of

Columbia Court of Appeals, the Chief Judge of the Superior Court of the District of Columbia, the Executive Officer of the District of Columbia Court System, the Superintendent of Schools, the City Administrator, the Director of the District of Columbia Public Library, and the Chief Executive Officer of the University of the District of Columbia are authorized to provide for the expenditure, within the limits of specified annual appropriation, of funds for appropriate purposes related to their official capacity as they may respectively deem necessary. Their determination thereof shall be final and conclusive, and their certificate shall be sufficient voucher for the expenditure of appropriations made pursuant to this section.

(b) At the end of each fiscal year, each official authorized to expend appropriations under this section shall provide an itemized accounting of these appropriations, which shall include the purposes for which all expenditures are made, in the form of an annual report, for presentation to the Mayor and the Council, and which shall be made available for public inspection.

(c) This section may be cited as the "Discretionary Funds Act of 1973".

(Oct. 26, 1973, 87 Stat. 509, Pub. L. 93-140, § 26; Sept. 23, 1978, D.C. Law 2-111, § 2, 25 DCR 1462; Oct. 24, 1981, D.C. Law 4-46, § 2, 28 DCR 4271; Jan. 26, 1982, D.C. Law 4-61, § 7, 28 DCR 4771; Feb. 20, 1988, D.C. Law 7-80, § 3, 34 DCR 7960; Dec. 24, 2013, D.C. Law 20-61, § 1102, 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 1102 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1102 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1101 of D.C. Law 20-61 provided that Subtitle K of Title I of the act may be cited as the "Discretionary Fund Renaming Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-333.11. Imposition of fee for delivery of bad check in payment of obligation due District of Columbia; amount of fee; manner of collection; exception. [Repealed].

Repealed.

(Sept. 28, 1965, 79 Stat. 844, Pub. L. 89-208, § 1; July 18, 1981, D.C. Law 4-16, § 2, 28 DCR 2365; Nov. 19, 1997, 111 Stat. 2186, Pub. L. 105-100,§ 157(b); Mar. 20, 1998, D.C. Law 12-60, § 1501, 44 DCR 7378; Oct, 20, 2005, D.C. Law 16-33, § 1102, 52 DCR 7503; Sept. 14, 2011, D.C. Law 19-21, § 9009, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 1054(a), 59 DCR 8025.)

Section references. — This section is referenced in § 51-114.

Emergency legislation.

For temporary (90 day) repeal of section, see § 1054(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section, see § 1054(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter XVI. Divestment, Prohibition on Investment of Certain Public Funds.

PART B.

GOVERNMENT OF IRAN.

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§ 1-336.06. Sunset.

Emergency legislation. — For temporary (90 day) addition of sections, see §§ 1042 to 1053 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 1042 to 1053 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Subchapter XVII. Delinquent Debt Recovery.

§ 1-350.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Central Collection Unit" means the Central Collection Unit established within the Office of Finance and Treasury of the Office of the Chief Financial Officer to implement this subchapter.

(2) "Delinquent debt" means any financial obligation owed by a person to a District agency that remains unpaid more than 90 days after it was due; provided, that the term shall not include tax debts or child-support debts.

(3) "Delinquent Debt Fund" or "Fund" means the Delinquent Debt Fund established by § 1-350.04.

(4) "District agency" means any District office, department, or agency, including independent agencies, but not including the District of Columbia Water and Sewer Authority.

(5) "Person" means any natural person, trust, corporation, limited liability corporation, partnership, limited liability partnership, or any other business organization.

(Sept. 20, 2012, D.C. Law 19-168, § 1042, 59 DCR 8025.)

Section references. — This section is referenced in § 38-1251.01.

Emergency legislation. — For temporary addition of subchapter, see §§ 1042-1053 of the

Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 1-350.02. Responsibility of District agencies to transfer and refer delinquent debt to the Central Collection Unit for collection.

(a) Except as provided in subsections (a-1) and (a-2) of this section, notwithstanding any other provision of law, regulation, or Mayor's order, each District agency shall transfer and refer delinquent debts to the Central Collection Unit within 60 days after a financial obligation owed by a person to the District becomes a delinquent debt.

(a-1) The University of the District of Columbia shall transfer and refer unpaid student tuition, student fees, and student loans to the Central Collection Unit within one year after the end of the semester in which the student tuition, student fees, and student loans were incurred.

(a-2) Beginning in fiscal year 2014 and for each fiscal year thereafter, funds collected and recovered by the Central Collection Unit arising out of delinquent debts transferred and referred to the Central Collection Unit by the Not-For-Profit Hospital Corporation for collection, net of costs and fees, shall be deposited into the Not-For-Profit Hospital Corporation Fund by the Central Collection Unit within 60 days following the then current fiscal year.

(b) A transfer and referral of a delinquent debt to the Central Collection Unit shall include all documentation and information relating to the delinquent debt, including:

(1) Documents that verify the existence and amount of the delinquent debt; (2) The name and last known address of the delinquent debtor; and

(3) Any notices issued to the delinquent debtor demanding payment.

(c) The procedure for transfer and referral of delinquent debt by each District agency to the Central Collection Unit, including the format and means of delivery of the information, shall be established by the Central Collection Unit within 120 days of September 20, 2012.

(Sept. 20, 2012, D.C. Law 19-168, § 1043, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 7032(a), 60 DCR 12472.)

Section references. — This section is referenced in § 1-350.04.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added "Except as provided in subsections (a-1) and (a-2) of this section" in (a); and added (a-1) and (a-2).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 7032(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 7032(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 1-350.01.

Legislative history of Law 20-61. — Law

20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 7031 of D.C. Law 20-61 provided that Subtitle C of Title VII of the act may be cited as the "Delinquent Debt Recovery Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-350.02a. Collection on behalf of the University of the District of Columbia.

Funds collected and recovered by the Central Collection Unit, beginning in fiscal year 2014 and continuing in the following fiscal years, arising out of delinquent debts transferred and referred to the Central Collection Unit by the University of the District of Columbia for collection, net of cost and fees, shall be deposited into the University of the District of Columbia Debt Collection Fund established pursuant to § 38-1251.01, by the Central Collection Unit within 60 days following the then current fiscal year.

(Sept. 20, 2012, D.C. Law 19-168, § 1043a, as added Dec. 24, 2013, D.C. Law 20-61, § 7032(b), 60 DCR 12472.)

Cross references. — University of the District of Columbia Debt Collection Fund, § 38-1251.01.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 7032(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) addition of this section, see § 7032(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-350.02.

Short title. — Section 7031 of D.C. Law 20-61 provided that Subtitle C of Title VII of the act may be cited as the "Delinquent Debt Recovery Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-350.03. Imposition of costs and fees.

(a) The Central Collection Unit may prescribe, impose, and collect fees from debtors to cover actual costs or expenses associated with the collection of delinquent debt.

(b) In addition to the authority to impose and collect fees to cover actual costs or expenses associated with the collection of delinquent debt, the Central Collection Unit may prescribe and impose a fee to be paid by each person who tenders in payment of a financial obligation owed to the District, including a tax, assessment, fee, citation, or charge, a check that is subsequently dishonored or not duly paid, or whose delinquent debt is transferred and referred to the Central Collection Unit for action. The amount of the fee shall be set by regulations established by the Central Collection Unit.

(Sept. 20, 2012, D.C. Law 19-168, § 1044, 59 DCR 8025.)

Section references. — This section is referenced in § 1-350.04.

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.04. Delinquent Debt Fund.

There is established within the General Fund of the District of Columbia a special nonlapsing fund known as the Delinquent Debt Fund ("Fund"). Funds allocated to the Central Collection Unit through the District's annual Budget and Financial Plan, all delinquent debts collected by the Central Collection Unit, except those amounts collected by the Central Collection Unit described in § 1-350.02(a-1) and (a-2), and all fees authorized by § 1-350.03 shall be deposited into the Fund; provided, that any funds deposited in the Fund before the then-current fiscal year, including any interest earned on such funds before the then-current fiscal year, the money remaining in the Fund after the payment of all costs and expenses accrued before the then-current fiscal year, less 10% of such remainder, which shall be retained as a reserve operating balance, shall be transferred or revert to the General Fund of the District of Columbia. All funds deposited in the Fund shall be administered and used by the Central Collection Unit, subject to appropriation by Congress, to conduct the authorized activities of the Central Collection Unit.

(Sept. 20, 2012, D.C. Law 19-168, § 1045, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 7032(c), 60 DCR 12472.)

Section references. — This section is referenced in § 1-350.01.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added "except those amounts collected by the Central Collection Unit described in § 1-350.02(a-1) and (a-2)" in the second sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 7032(c) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 7032(c) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — See note to § 1-350.01.

Legislative history of Law 20-61. — See note to § 1-350.02.

Short title. — Section 7031 of D.C. Law 20-61 provided that Subtitle C of Title VII of the act may be cited as the "Delinquent Debt Recovery Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-350.05. Lien for delinquent debt.

(a) If a person liable to pay a delinquent debt neglects or refuses to pay the delinquent debt after demand by the Central Collection Unit, the amount, including any interest and any fees imposed for collection of the delinquent debt that may accrue, shall be a lien in favor of the District of Columbia upon all property (including rights to property), whether real or personal, belonging to the person, and shall have the same effect as a lien created by judgment. The lien shall attach to all real or personal property (including rights to property) belonging to, or acquired by, the person at any time during the period of the lien.

(b) The lien imposed by subsection (a) of this section shall be deemed to have

arisen on the 91st day after the debt became due and owing to the District and shall continue until the delinquent debt is satisfied or becomes unenforceable.

(c) The lien imposed by subsection (a) of this section shall not be valid against a bona fide purchaser for value, holder of a security interest, mechanic's lien, or judgment lien creditor until the lien has been filed with the Recorder of Deeds by the Central Collection Unit.

(d) Upon transferring a delinquent debt to the Central Collection Unit, a transferring agency's authority to file a lien for that debt shall terminate.

(Sept. 20, 2012, D.C. Law 19-168, § 1046, 59 DCR 8025.)

Temporary legislation. — For temporary (225 days) addition of provisions requiring the Office of the Chief Financial Officer to review all residential real property tax liens sold between September 1, 2003, and September 1, 2013, see § 2 of the Tax Lien Compensation and Relief Reporting Temporary Act of 2013 (D.C. Law 20-54, December 13, 2013, 60 DCR 15161).

Emergency legislation. — For temporary (90 days) addition of provisions requiring the Office of the Chief Financial Officer to review all residential real property tax liens sold between September 1, 2003, and September 1, 2013, see § 2 of the Tax Lien Compensation and Relief Reporting Emergency Act of 2013 (D.C. Act 20-176, October 4, 2013, 60 DCR 14940).

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.06. Payment plans; discharge of delinquent debt; sale of delinquent debt; report to credit agencies.

(a) Subject to subsection (b) of this section, the Central Collection Unit, in its discretion, may:

(1) Enter into payment plan agreements with persons for payment of delinquent debt; provided, that no payment plan shall exceed a term of 5 years;

(2) Discharge as uncollectible a delinquent debt that is older than 10 years;

(3) Settle a delinquent debt for less than the full amount owed;

(4) Report delinquent debts to credit agencies;

(5) Sell delinquent debt; and

(6) Refer a delinquent debt to the Office of the Attorney General for the District of Columbia for civil or administrative collection or enforcement actions.

(b) The authority described in subsection (a) of this section shall become effective upon the issuance of an order by the Mayor delegating the Mayor's authority, pursuant to §§ 2-402 through 2-406, as is necessary to carry out the purposes of this subchapter.

(Sept. 20, 2012, D.C. Law 19-168, § 1047, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.07. Suspension of licenses and permits.

(a) Each District agency that transfers and refers a delinquent debt of more than $100 to the Central Collection Unit for collection shall, within 5 days of

the transfer and referral, suspend the granting or issuance of any District license or permit to the delinquent debtor. The suspension shall remain in effect until the Central Collection Unit notifies the appropriate District agency that the delinquent debt has been satisfied.

(b) Each District agency that suspends the granting or issuance of a District license or permit pursuant to this section shall provide written or electronic notice of the suspension to the Central Collection Unit within 5 days of the suspension.

(c) The Central Collection Unit shall provide to all District agencies, within 10 days of the end of the preceding month, a list of the names of all persons currently subject to suspension of the granting or issuing of a District license or permit due to delinquent debt of more than $100.

(Sept. 20, 2012, D.C. Law 19-168, § 1048, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.08. Reciprocal agreements.

The Central Collection Unit may enter into reciprocal agreements for the collection of delinquent debts with any state, local, or municipal government.

(Sept. 20, 2012, D.C. Law 19-168, § 1049, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.09. Offset of delinquent debt against District employee pay and against contractual obligations to District contractors.

(a)(1) The Central Collection Unit may collect delinquent debt from District employees by deducting delinquent debt from the biweekly pay of District employees, in an amount not to exceed 10% of an employee's gross biweekly pay, until the delinquent debt is fully satisfied.

(2) If a District employee's wages are subject to a preexisting attachment or attachments, the Central Collection Unit shall not exercise its authority under paragraph (1) of this subsection until the preexisting attachments have been satisfied, in order of priority.

(b)(1) The Central Collection Unit may collect delinquent debt from District contractors by deducting the delinquent debt from any amounts owed to a District contractor pursuant to a contractual obligation between the District and the contractor.

(2) For the purposes of this subsection, the term:

(A) "Contractual obligation" includes an obligation arising from a contract or a grant agreement described in subparagraph (B) of this paragraph that is entered into after September 20, 2012.

(B) "District contractor" includes any person who receives payments from the District pursuant to a contract or a grant agreement that requires the

grantee to perform services in consideration for the payment of the grant amount.

(c) The Central Collection Unit may collect delinquent debts by offsetting District tax refunds and District lottery winnings against delinquent debts owed to the District.

(Sept. 20, 2012, D.C. Law 19-168, § 1050, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.10. Consumer protection.

The Central Collection Unit and any outside parties it engages to collect delinquent debt shall fully comply with the Fair Debt Collection Practices Act, approved September 20, 1977 (91 Stat. 874; 15 U.S.C. § 1692 et seq.), Chapter 39 of Title 28 [§ 28-3901 et seq.], and all other federal and District laws and rules that govern collection of delinquent debt.

(Sept. 20, 2012, D.C. Law 19-168, § 1051, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.11. Report to the Council.

On or before March 1 of each year, the Central Collection Unit shall issue a report to the Mayor and the Council that includes:

(1) The amount of delinquent debt collected in the preceding fiscal year;

(2) The amount of uncollected delinquent debt owed to the District; and

(3) A summary of the efforts made to collect delinquent debt owed to the District and the challenges that remain for collecting it.

(Sept. 20, 2012, D.C. Law 19-168, § 1052, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

§ 1-350.12. Rules.

Within 120 days of September 20, 2012, the Chief Financial Officer shall issue rules to implement the provisions of this subchapter.

(Sept. 20, 2012, D.C. Law 19-168, § 1053, 59 DCR 8025.)

Legislative history of Law 19-168. — See note to § 1-350.01.

CHAPTER 5. OFFICERS AND EMPLOYEES GENERALLY.

Subchapter II. Affirmative Action in District Government Employment.

§ 1-521.01. Goal; "available work force" defined.

Section references. — This section is referenced in § 1-607.01 and § 1-632.06.

LAW REVIEWS AND JOURNAL COMMENTARIES

Affirmative Action, Equal Access And The Supreme Court's 1988 Term: The Rehnquist Court Takes A Sharp Turn To The Right, 18 Hofstra L. Rev. 1057.

§ 1-521.05. Agency affirmative action plan — Program for securing equal employment opportunity.

The plan shall further state what actions the agency is taking to secure the equal employment opportunity within the agency of the groups enumerated in § 1-521.03, and of the aging, the young, persons with disabilities, and the homosexual citizens of the District, whether such citizens be actual or potential employees of the District government.

(May 6, 1976, D.C. Law 1-63, § 6, 22 DCR 6539; Sept. 26, 2012, D.C. Law 19-169, § 3, 59 DCR 5567.)

Section references. — This section is referenced in § 1-521.07.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "persons with disabilities" for "the handicapped."

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter III. Mayoral Nominees.

§ 1-523.01. Mayoral nominees.

(a) The Mayor shall nominate persons to serve as subordinate agency heads in the Executive Service established by subchapter X-A of Chapter 6 of this title [§ 1-610.51 et seq.], subject to the advice and consent of the Council,

within 180 calendar days of the date of the establishment of the subordinate agency or the date of a vacancy. A nomination shall be submitted to the Council for a 90-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination by resolution within this 90-day review period, the nomination shall be deemed confirmed.

(1) If the Mayor fails to nominate a person within 180 days of the establishment of the subordinate agency vacancy or the date of vacancy, no District funds may be expended to compensate any person serving in the position.

(2) The Mayor may designate an acting subordinate agency head, but this designation shall not suspend the requirements of this section, or the provisions of § 1-610.59(a).

(b) The Mayor shall not appoint board or commission members to serve in a position that the law requires to be filled by Mayoral appointment with the advice and consent of the Council.

(c) No person shall serve in a hold-over capacity for longer than 180 days after the expiration of the term to which he or she was appointed, in a position that is required by law to be filled by Mayoral appointment with the advice and consent of the Council including to positions on boards and commissions.

(d) The provisions of this section shall not be affected by any provision in subchapter VI of Chapter 3 of this title [§ 1-315.01 et seq.].

(e) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 90-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. If the Council does not approve by resolution within the 90-day period a nomination to these boards or commissions, the nomination shall be deemed disapproved.

(1) The Alcoholic Beverage Control Board, established by § 25-104(a);

(2) The District of Columbia Board of Library Trustees, established by § 39-104;

(3) The Board of Trustees of the University of the District of Columbia, established by § 38-1202.01;

(4) The Board of Zoning Adjustment, established by § 6-641.07;

(5) The Police Complaints Board, established by § 5-1104;

(6) The Contract Appeals Board, established by § 2-360.01;

(7) The District of Columbia Board of Elections and Ethics, established by § 1-1001.03;

(8) The Commission on Human Rights, established by § 2-1404.01;

(9) Repealed.

(10) The District of Columbia Housing Finance Agency Board of Directors, established by § 42-2702.02;

(11) The District of Columbia Lottery and Charitable Games Control Board, established by § 3-1301;

(12) Repealed.

(13) The Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031) in accordance with § 6-1103;

(14) The Metropolitan Washington Airports Authority Board of Directors, established by § 9-1006(e);

(15) Repealed;

(16) The Office of Employee Appeals, established by § 1-606.01;

(17) The Public Employee Relations Board, established by § 1-605.01;

(18) The Public Service Commission, established by § 34-801;

(19) The Rental Housing Commission, established by § 45-2511;

(20) The Washington Convention and Sports Authority Board of Directors, established by § 10-1202.05;

(21) The Water and Sewer Authority Board of Directors, established by § 34-2202.04;

(22) The Zoning Commission for the District of Columbia, established by § 6-621.01;

(23) Repealed.

(24) The District of Columbia Taxicab Commission, established by § 40-1704;

(25) Repealed;

(26) Repealed;

(27) The Board of Commissioners of the District of Columbia Housing Authority, established by § 6-211;

(28) Repealed;

(29) Homeland Security Commission established by § 7-2271.02; and

(30) Commission on Fashion Arts and Events, established by § 3-651.

(f) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 45-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. The Council shall be deemed to have approved a nomination under this subsection if during the 45-day period, no member introduces a resolution disapproving the nomination. If a member introduces a resolution disapproving the nomination within the 45-day period, the Council shall have an additional 45 days, excluding days of Council recess, to disapprove the nomination by resolution, or it will be deemed approved.

(1) The Apprenticeship Council, established by § 32-1402;

(2) The Armory Board, established by § 3-302;

(3) Repealed;

(4) The Board of Dentistry, established by § 3-1202.01;

(5) The Board of Medicine, established by § 3-1202.03;

(6) The Board of Nursing, established by § 3-1202.04;

(7) The Board of Nursing Home Administration, established by § 3-1202.05;

(8) The Board of Psychology, established by § 3-1202.11;

(9) Repealed.

(10) The Child Support Guideline Commission, established by § 16-916.02;

(11) The Commission on the Arts and Humanities, established by § 39-203 note;

(12) The District of Columbia Boxing and Wrestling Commission, established by § 3-604;

(13) The Multistate Tax Commission, established by § 47-441;

(14) The Public Access Corporation Board of Directors, established by § 34-1253.02;

(15) The Board of Real Estate, established by § 47-2853.06(h);
(16) Repealed;
(17) The Board of Dietetics and Nutrition, established by § 3-1202.02;
(18) The Board of Occupational Therapy, established by § 3-1202.06;
(19) The Board of Optometry, established by § 3-1202.07;
(20) The Board of Pharmacy, established by § 3-1202.08;
(21) The Board of Physical Therapy, established by § 3-1202.09;
(22) The Board of Podiatry, established by § 3-1202.10;
(23) The Board of Social Work, established by § 3-1202.12;
(24) The Board of Professional Counseling, established by § 3-1202.13;
(25) The Board of Respiratory Care, established by § 3-1202.14;
(26) The Board of Massage Therapy, established by § 3-1202.15;
(27) The Board of Chiropractic, established by § 3-1202.16;
(28) The Statewide Health Coordinating Council, established by § 44-403;
(29) The Board of Barber and Cosmetology, established by § 47-2853.06(c);
(30) The Board of Real Estate Appraisers, established by § 47-2853.06(g);
(31) Repealed;
(32) The Board of Funeral Directors, established by § 47-2853.06(f);
(33) Repealed;
(34) Repealed;
(35) The Board of Veterinary Examiners for the District of Columbia, established by § 3-505 [repealed];
(36) Reserved;
(37) The Board of Architecture and Interior Designers, established by § 47-2853.06(a);
(38) The Board of Accountancy, established by § 47-2853.06(b);
(39) The Board of Industrial Trades, established by § 47-2853.06(d);
(40) The Board of Professional Engineering, established by § 47-2853.06(e);
(41) The Housing and Community Development Reform Commission, established by § 6-1032;
(42) The Commission on Asian and Pacific Islander Community Development, established by § 2-1373;
(43) The Board of Marriage and Family Therapy, established by § 3-1202.17;
(44) The District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21;
(45) The Security Officer Advisory Commission;
(46) The Motor Vehicle Theft Prevention Commission, established by § 3-1352;
(47) The Commission on African Affairs, established by § 2-1393;
(48) The Science Advisory Board to the Department of Forensic Sciences, established by § 5-1501.11; and
(49) The Commission on African-American Affairs, established by § 3-1441.

(g) Notwithstanding any other provision of law, the Mayor shall directly appoint members to boards and commissions, without the advice and consent of the Council, to the boards and commissions not contained in subsections (e) and (f) of this section.

(h) This section shall not apply to positions on boards and commissions that are designated by law for the Mayor, his or her designee, or another member of the executive branch or his or her designee.

(Mar. 3, 1979, D.C. Law 2-142, § 2, 25 DCR 6112; Mar. 4, 1981, D.C. Law 3-131, § 802, 28 DCR 326; Mar. 16, 1989, D.C. Law 7-201, § 3, 36 DCR 248; May 10, 1989, D.C. Law 7-231, § 4, 36 DCR 492; Oct. 15, 1993, D.C. Law 10-39, § 2, 40 DCR 5827; Apr. 20, 1999, D.C. Law 12-261, § 1245, 46 DCR 3142; June 12, 1999, D.C. Law 12-285, § 2, 46 DCR 1355; Oct. 20, 1999, D.C. Law 13-38, § 1103, 46 DCR 6373; Oct. 14, 1999, D.C. Law 13-49, §§ 3, 15, 46 DCR 5153; Apr. 12, 2000, D.C. Law 13-91, § 111, 47 DCR 520; May 9, 2000, D.C. Law 13-105, § 28, 47 DCR 1325; June 19, 2001, D.C. Law 13-313, § 3, 48 DCR 1873; July 12, 2001, D.C. Law 14-18, § 9(c), 48 DCR 4047; Oct. 3, 2001, D.C. Law 14-28, § 308, 48 DCR 6981; Oct. 1, 2002, D.C. Law 14-190,§ 1148, 49 DCR 6968; Mar. 10, 2004, D.C. Law 15-88, § 3, 50 DCR 10999; Mar. 13, 2004, D.C. Law 15-105, §§ 15, 18, 51 DCR 881; Dec. 7, 2004, D.C. Law 15-216, § 3, 51 DCR 9123; Dec. 7, 2004, D.C. Law 15-219, § 201(b), 51 DCR 9142; Apr. 13, 2005, D.C. Law 15-354, § 2, 52 DCR 2638; Apr. 7, 2006, D.C. Law 16-91, § 116, 52 DCR 10637; Nov. 16, 2006, D.C. Law 16-187, § 221, 53 DCR 6722; Mar. 2, 2007, D.C. Law 16-191, § 115, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-262, § 409, 54 DCR 794; Feb. 6, 2008, D.C. Law 17-108, § 202, 54 DCR 10993; Apr. 15, 2008, D.C. Law 17-148, § 5, 55 DCR 2219; July 18, 2008, D.C. Law 17-197, § 10(a), 55 DCR 6277; Mar. 25, 2009, D.C. Law 17-353, §§ 127(b), 175, 208, 233, 249, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 2082(a), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-363, § 3(a), 58 DCR 963; Aug. 17, 2011, D.C. Law 19-18, § 18, 58 DCR 5403; Mar. 14, 2012, D.C. Law 19-106, § 4, 59 DCR 440; Sept. 26, 2012, D.C. Law 19-171, § 203, 59 DCR 6190.)

Section references. — This section is referenced in § 1-301.82, § 1-301.191, § 1-603.01, § 1-610.51, § 1-1161.01, § 1-1171.01, § 2-218.21, § 2-352.03, § 2-1373, § 2-1374, § 2-1404.03, § 2-1431.03, § 2-1515.02, § 3-652, § 3-1353, § 3-1442, § 4-756.03, § 5-105.01, § 5-129.21, § 5-402, § 5-1402, § 5-1501.03, § 5-1501.11, § 6-1032, § 7-153, § 7-761.06, § 7-771.04, § 7-1141.03, § 7-2271.02, § 8-151.04, § 10-551.03, § 10-1202.05, § 24-1302, § 24-1303, § 31-3171.05, § 34-1252.01, § 38-174, § 38-191, § 38-2601, § 39-203, § 42-2702.02, § 47-2853.07, § 49-1002, and § 50-921.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "§ 2-360.01" for "§ 2-309.01" in (e)(6); and repealed (e)(15), (e)(25), (e)(26), and (e)(28).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

CHAPTER 6. MERIT PERSONNEL SYSTEM.

Subchapter I. Findings; Purpose.

§ 1-601.01. Findings.

Section references. — This section is referenced in § 1-607.03, § 1-1001.06, § 1-1161.01, § 2-359.10, § 2-1515.08, § 2-1594, § 7-771.01, § 7-771.05, § 34-2202.15, § 34-2202.17, and § 44-951.10.

Emergency legislation. — For temporary

(90 days) addition of D.C. Law 2-139, Title XX-E, see § 2(a) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-277, February 20, 2014, 61 DCR 1576).

For temporary (90 days) addition of D.C. Law 2-139, Title XX-F, see § 2(b) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-277, February 20, 2014, 61 DCR 1576).

CASE NOTES

ANALYSIS

Construction and application.

District of Columbia Comprehensive Merit Personnel Act (CMPA) foreclosed an applicant's suit claiming that the District of Columbia's (District) decision not to hire him was contrary to regulation or to the District Personnel Manual as he was not an employee or former employee of the District and sought relief under the CMPA, rather than asserting a claim arising from a distinct substantive source of law or of a concrete requirement of the CMPA; however, a broad rule was not announced that employees or former employees of the District could obtain judicial review of their employment-related claims only if such review was expressly afforded by the CMPA. Coleman v. District of Columbia, 80 A.3d 1028, 2013 D.C. App. LEXIS 792 (2013).

Exclusivity of remedy.

Under the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., such common law claims as wrongful discharge are preempted. The force of preemption is particularly strong here because the Council squarely addressed the issue itself, articulating an express public policy in favor of government employee whistleblowing and creating a specific, statutory cause of action to enforce it. McCormick v. District of Columbia, 899 F. Supp. 2d 59, 2012 U.S. Dist. LEXIS 151512 (D.D.C. Oct. 22, 2012).

Exhaustion of administrative remedies.

Former probationary teacher's claim of unlawful retaliation for challenging and complaining about alleged school policy to alter student test scores was not subject to dismissal for failure to exhaust administrative remedies because he attempted to initiate the traditional process under the Comprehensive Merit Personnel Act by pursuing a claim through the district's office of employee appeals, but this office determined that it did not have jurisdiction due to the employee's probationary status, and thus, the employee could have gone no further in pursuing and exhausting his claim. Mpoy v. Fenty, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90960 (D.D.C. July 2, 2012).

Preemption.

Trial court had jurisdiction over motions to stay arbitration because the Comprehensive Merit Personnel Act did not preempt the provision of the Revised Uniform Arbitration Act that provided for a pre-arbitration motion to stay. District of Columbia v. Am. Fedn. of State, 81 A.3d 299, 2013 D.C. App. LEXIS 695 (2013).

Primary jurisdiction.

Action filed against the District of Columbia by former public-school teachers was properly dismissed for lack of subject-matter jurisdiction because the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., gave the District of Columbia Public Employee Relations Board exclusive primary jurisdiction over unfair-labor-practice claims, regardless of whether the alleged violation occurred while the teacher was a District employee. Battle v. District of Columbia, 80 A.3d 1036, 2013 D.C. App. LEXIS 791 (2013).

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

Subchapter II. Coverage; Status of Present Employees; Retention of Existing Personnel Rights and Benefits.

§ 1-602.01. Coverage; exceptions.

CASE NOTES

Labor agreement.

Trial court did not err in concluding that a former correctional officer's claim that the District of Columbia Department of Corrections disregarded the procedures that had to be followed under the labor agreement was barred by the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., because the officer's argument that her claim was not just a personnel grievance but one of disability-based discrimination under the District of Columbia Human Rights Act, D.C. Code § 2-1401 et seq., added nothing, given the rejection of that claim as a matter of law. Hunt v. D.C., 66 A.3d 987, 2013 D.C. App. LEXIS 246 (2013).

Subchapter III. Definitions.

§ 1-603.01. Definitions.

For the purpose of this chapter unless otherwise required by the context:

(1) The term "agency" means any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District to administer any law, rule, or any regulation adopted under authority of law. The term "agency" shall also include any unit of the District of Columbia government created by the reorganization of 1 or more of the units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency.

(2) The term "boards and commissions" means bodies established by law or by order of the Mayor of the District of Columbia consisting of appointed members to perform a trust or execute official functions on behalf of the District of Columbia government. Compensation or reimbursement of expenses, if any, to such members shall be provided according to § 1-611.08; provided, however, that full-time employees shall be paid in accordance with the provisions of § 1-611.04 or § 1-611.11.

(3) The term "Career Service" means positions in the District of Columbia government as provided for in subchapter VIII of this chapter and § 1-602.04.

(4) The term "Council" means the Council of the District of Columbia, created pursuant to § 1-204.01.

(5) The term "District" means the District of Columbia government (D.C. Official Code § 1-102).

(5A) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(5B) The term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(5C) The term "domicile" means:

(A) Physical presence in the District of Columbia; and

(B) An intent to abandon any and all former domiciles and remain in the District of Columbia during the duration of the appointment.

(6) The term "educational employee" means an employee of the District of Columbia Board of Education or of the Board of Trustees of the University of the District of Columbia, except persons employed in any of the following types of positions:

(A) Clerical, stenographic, or secretarial positions;

(B) Custodial, building maintenance, building engineer, general maintenance, or general engineering positions;

(C) Bus drivers and other drivers involved in the transportation of persons, equipment, materials or inventory;

(D) Cooks, dieticians, and other positions involved in direct planning, preparation, service, and conditions of preparation and service of food;

(E) Technicians involved in the operation or maintenance of machinery, vehicles, equipment or the processing of materials and inventory; or

(F) Positions the major duties in which consist of the supervision of employees covered in subparagraphs (A) through (E) of this definition: provided, however, that this subparagraph shall not be deemed to include heads of academic units at the School of Law or the University of the District of Columbia.

(7) The term "employee" means, except when specifically modified in this chapter, an individual who performs a function of the District government and who receives compensation for the performance of such services.

(8) The term "Excepted Service" means positions in the District of Columbia government as provided for in subchapter IX of this chapter.

(8A) The term "exceptional circumstances" means conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency hiring an individual to fill a position in the Excepted and Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement pursuant to §§ 1-609.06 and 1-610.59.

(9) The term "Executive Service" means any subordinate agency head whom the Mayor is authorized to appoint in accordance with subchapter X-A of this chapter.

(9A) "Gender identity or expression" shall have the same meaning as provided in § 2-1401.02(12A).

(10) The term "grievance" means any matter under the control of the District government which impairs or adversely affects the interest, concern, or welfare of employees, but does not include adverse actions resulting in removals, suspension of 10 days or more, or reductions in grade, reductions in force or classification matters. This definition applies to matters which are subject to procedures established pursuant to section § 1-616.53 and is not intended to restrict matters that may be subject to a negotiated grievance and arbitration procedure in a collective bargaining agreement between the District and a labor organization representing employees.

(10A) The term "hard to fill position" means a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and

responsibilities and the unusual combination of highly specialized qualification requirements for the position.

(11) The term "head" means the highest ranking executive official of an agency.

(12) The term "holidays" means any day established as a legal holiday pursuant to subchapter XII of this chapter.

(13) The term "independent agency" means any board or commission of the District of Columbia government not subject to the administrative control of the Mayor, including, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, the Armory Board, the Board of Elections and Ethics, the Public Service Commission, the Zoning Commission for the District of Columbia, the Public Employee Relations Board, the District of Columbia Retirement Board, and the Office of Employee Appeals. For the purposes of this chapter, the Council of the District of Columbia shall be considered an independent agency of the District of Columbia. For the purposes of subchapter XXVIII of this chapter, the Washington Metropolitan Area Transit Commission shall be considered an independent agency of the District.

(13A) The term "Legal Service" means positions in the District of Columbia government as provided for in subchapter VIII-B of this chapter.

(13B) The term "Management Supervisory Service" means positions in the District of Columbia government as provided for in subchapter IX-A of this chapter.

(13C) The term "nonschool-based personnel" means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.

(14) The term "personnel authority" means an individual with the authority to administer all or part of a personnel management program as provided in subchapter IV of this chapter.

(14A) "Public official" means:

(A) A candidate for nomination for election, or election, to public office;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title [§ 1-201.01 et seq.];

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to § 1-123;

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(H) A member of a board or commission listed in § 1-523.01(e); and

(I) A District of Columbia Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest; and any

additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest.

(15) The term "resident" means any person who is a domiciliary of the District of Columbia and who throughout his or her employment by the District maintains a place of abode in the District of Columbia as his or her actual, regular, and principal place of occupancy.

(15A) The term "school administrators" means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.

(16) The term "standard" means any criterion, guideline, or measure established by appropriate authority for the purpose of making objective comparisons or determinations for such purposes, including, but not limited to, the classification of positions, establishment of pay, evaluation of qualifications, and appraisal of work performance.

(17) The term "subordinate agency" means any agency under the direct administrative control of the Mayor, including, but not limited to, the following:

(A) Office of Operations (Mayor's Order 83-17);

(B) Office of Economic Development (Mayor's Order 83-18);

(C) Office of Financial Management (Mayor's Order 83-19);

(D) Office of the Corporation Counsel (Reorganization Order 50);

(E) Department of Corrections (Organization Order 7);

(F) Department of Public Works (Reorganization Plan No. 4 of 1983);

(G) Department of Finance and Revenue (Commissioner's Order 69-96);

(H) Fire and Emergency Medical Services Department (Reorganization Order 6);

(I) Department of Administrative Services (Reorganization Plan No. 5 of 1983);

(J) Department of Housing and Community Development (Reorganization Plan 3 of 1975);

(K) Repealed;

(L) Metropolitan Police force (D.C. Official Code, § 5-105.05);

(M) Department of Parks and Recreation (Organization Order 10);

(N) Department of Human Services (Reorganization Plan No. 2 of 1979 and Mayor's Reorganization Plan No. 3 of 1986), including:

(i) The Commission on Social Services;

(ii) Repealed;

(iii) Repealed; and

(iv) Repealed;

(O) Department of Employment Services (Reorganization Plan No. 1 of 1980);

(P) Department of Consumer and Regulatory Affairs (Reorganization Plan No. 1 of 1983);

(Q) Homeland Security and Emergency Management Agency (Commissioner's Order 74-261);

(R) Office of Human Rights;
(S) Office of Personnel (D.C. Official Code, § 1-604.02);
(T) Office on Latino Affairs (D.C. Official Code, § 2-1311);
(U) Office on Aging (D.C. Official Code, § 7-503.01);
(V) Repealed;
(W) Board of Parole (Organization Order 6);
(X) Repealed;
(Y) Office of Business and Economic Development (D.C. Official Code, § 2-1201.02);
(Z) Office of the Secretary of the District of Columbia (Mayor's Order 84-77);
(AA) Office of Inspector General (D.C. Official Code, § 1-301.115a);
(BB) Repealed;
(CC) Repealed;
(DD) Office of Cable Television and Telecommunications;
(EE) Repealed;
(FF) Repealed;
(GG) Repealed;
(HH) Office of the Budget (Mayor's Order 79-5);
(II) Repealed;
(JJ) Repealed;
(KK) Repealed;
(LL) Commission on the Arts and Humanities;
(MM) Department of Health;
(NN) Office of Contracting and Procurement;
(OO) Repealed;
(PP) Department of Insurance, Securities, and Banking;
(QQ) Repealed;
(QQ-i) Department of General Services;
(RR) Office of the Chief Technology Officer;
(SS) Department of Motor Vehicles;
(TT) Office of Planning (Mayor's Order 83-25);
(UU) Office of Local Business Development;
(VV) Office of Deputy Mayor for Planning and Economic Development;
(WW) Office of the Chief Medical Examiner;
(XX) Child and Family Services Agency;
(YY) Department of Mental Health;
(ZZ) District Department of Transportation;
(AAA) Office of Unified Communications;
(BBB) Department of Youth Rehabilitation Services;
(CCC) The Office of Risk Management, established by Reorganization Plan No. 1 of 2003;
(DDD) Department on Disability Services; and
(EEE) District of Columbia Public Schools.

(Mar. 3, 1979, D.C. Law 2-139, § 301, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(c), 27 DCR 2632; Feb. 24, 1987, D.C. Law 6-177, § 3(d), 33 DCR 7241;

Mar. 16, 1989, D.C. Law 7-201, § 2, 36 DCR 248; Mar. 24, 1990, D.C. Law 8-97, § 3(a), 37 DCR 1046; Sept. 26, 1995, D.C. Law 11-52, § 801(a), 42 DCR 3684; Mar. 5, 1996, D.C. Law 11-98, § 301(a), 43 DCR 5; Jan. 26, 1996, D.C. Law 11-78, § 501(a), 42 DCR 6181; Sept. 26, 1996, D.C. Law 11-52,§ 1001(a), 42 DCR 3684; Apr. 26, 1996, 110 Stat. 215, Pub. L. 104-134, § 145(1); Aug. 1, 1996, D.C. Law 11-152, § 302(c), 43 DCR 2978; Sept. 9, 1996, 110 Stat. 2372, Pub. L. 104-194, § 138(1); Apr. 9, 1997, D.C. Law 11-255,§ 4(a), 44 DCR 1271; Aug. 5, 1997, 111 Stat. 760, Pub. L. 105-33, § 11261(b)(2); June 10, 1998, D.C. Law 12-124, § 101(a), 45 DCR 2464; Mar. 26, 1999, D.C. Law 12-175, §§ 1807, 1817, 1828, 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-264, §§ 5(a), 53, 46 DCR 2118; June 12, 1999, D.C. Law 12-285, § 3, 46 DCR 1355; Oct. 20, 1999, D.C. Law 13-38, §§ 208 and 225, 46 DCR 6373; Apr. 12, 2000, D.C. Law 13-91, § 103(b), 47 DCR 520; Oct. 19, 2000, D.C. Law 13-172, §§ 1902 and 2919(a), 47 DCR 6308; Apr. 4, 2001, D.C. Law 13-277,§ 3(b)(1), 48 DCR 2043; June 19, 2001, D.C. Law 13-313, § 2(a) 48 DCR 1873; Dec. 18, 2001, D.C. Law 14-56, § 116(a)(1), 48 DCR 7674; May 21, 2002, D.C. Law 14-137, § 10, 49 DCR 3444; Oct. 1, 2002, D.C. Law 14-185, § 2(a), 49 DCR 6073; Oct. 19, 2002, D.C. Law 14-213, § 3(a), 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, §§ 2(a), 19(a), 20(d), 51 DCR 881; June 11, 2004, D.C. Law 15-166, § 4(a), 51 DCR 2817; Dec. 7, 2004, D.C. Law 15-205, § 3221, 51 DCR 8441; Apr. 12, 2005, D.C. Law 15-335, § 201, 52 DCR 2025; Apr. 13, 2005, D.C. Law 15-354, § 5(a), 52 DCR 2638; Apr. 7, 2006, D.C. Law 16-91, §§ 113, 117, 118(a), 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191,§ 116, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-262, § 401, 54 DCR 794; Mar. 14, 2007, D.C. Law 16-264, § 201, 54 DCR 818; June 12, 2007, D.C. Law 17-9, § 1001, 54 DCR 4102; June 25, 2008, D.C. Law 17-177, § 3(b), 55 DCR 3696; Sept. 12, 2008, D.C. Law 17-231, § 3(a), 55 DCR 6758; Mar. 25, 2009, D.C. Law 17-353, §§ 157(e), 176, 203(c), 248, 56 DCR 1117; Sept. 14, 2011, D.C. Law 19-21, § 1032(a), 58 DCR 6226; Apr. 27, 2012, D.C. Law 19-124, § 501(c)(1), 59 DCR 1862; Sept. 26, 2012, D.C. Law 19-171, § 9(a), 59 DCR 6190.)

Section references. — This section is referenced in § 1-515.01, § 1-529.02, § 1-608.01a, § 1-609.06, § 1-612.04, § 1-612.31, § 1-711, § 2-1215.16, § 3-101, and § 22-4231.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 added (17)(QQ-i).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Editor's notes.

D.C. Law 19-171 purported to substitute "Department of General Services" for "Office of Property Management" in (17)(QQ); however, because (17)(QQ) had previously been repealed, (17)(QQ-i) has been added instead.

Subchapter IV. Organization for Personnel Management.

§ 1-604.06. Personnel authority.

(a) The implementation of the rules and regulations shall be undertaken by the appropriate personnel authority for employees of the District.

(b) For the purposes of subsection (a) of this section, the personnel authority

for District of Columbia government means the Mayor for all employees, except as provided in § 1-602.03 and as follows:

(1) For noneducational employees of the District of Columbia Board of Education, the personnel authority is the District of Columbia Board of Education;

(2) For noneducational employees of the Board of Trustees of the University of the District of Columbia, the personnel authority is the Board of Trustee of the University of the District of Columbia;

(3) For employees of the Council of the District of Columbia, the personnel authority is:

(A)(i) The Chairman of the Council for all central staff of the Council and the employees in the Legal Services employed by the Council of the District of Columbia. For the purposes of this subchapter, the term "central staff of the Council" refers to those employees described in § 1-609.03(a)(3) except those assigned to an individual member of the Council; provided, however, that the Secretary, General Counsel, and Budget Director to the Council to the Council shall be appointed by the Council of the District of Columbia according to its rules of procedure and organization; and

(ii) For employees of the Council, the Chairman of the Council shall exercise the authority possessed by the Director of the Department of Human Resources and may adopt personnel procedures applicable to those employees; and

(B) each member of the Council for his or her personal and committee staff; provided, however, that the respective committees of the Council shall approve the appointment of each committee staffperson. The Chairman and each member of the Council shall utilize the Secretary to the Council for the actual transaction of all personnel matters for employees of the Council;

(3A) For the Executive Director of the Office of Advisory Neighborhood Commissions, the personnel authority is the Chairman of the Council.

(4) For employees of the Board of Elections, the personnel authority is the Board of Elections; provided, however, that this authority shall not apply to the Director of Campaign Finance (§ 1-1163.02). For employees in the Office of Director of Campaign Finance, the personnel authority is the Director of Campaign Finance;

(5) For employees of the Public Service Commission, the personnel authority is the Public Service Commission; provided, however, that the People's Counsel (D.C. Official Code, § 34-804) shall be appointed according to law and for employees under the direct administrative control of the People's Counsel, the personnel authority is the People's Counsel;

(6) For the Executive Director of the Public Employee Relations Board, created by subchapter V of this chapter, the personnel authority is the Public Employee Relations Board; and for all other employees of the Board, the personnel authority is the Executive Director of the Board;

(7) For the Executive Director of the Office of Employee Appeals and the General Counsel of the Office of Employee Appeals created by subchapter VI of this chapter, the personnel authority is the Office of Employee Appeals; and for all other employees of the Office, the personnel authority is the Executive Director;

(8) For employees of the Office of District of Columbia Auditor (D.C. Official Code, § 1-204.55), the personnel authority is the Auditor of the District of Columbia;

(9) Repealed;

(10) For employees of the District of Columbia Armory Board (D.C. Official Code, § 3-302), the personnel authority is the Armory Board;

(11) For employees of the District of Columbia Law Revision Commission, the personnel authority is the District of Columbia Law Revision Commission;

(12) For employees of the District of Columbia Board of Library Trustees, the personnel authority is the Board of Library Trustees;

(13) Repealed;

(14) For the Executive Director and Deputy Director of the District of Columbia Lottery and Charitable Games Control Board ("Board"), the personnel authority is the Board, and for all other employees of the Board the personnel authority is the Executive Director of the Board;

(15) For employees of the District of Columbia Retirement Board, the personnel authority is the District of Columbia Retirement Board;

(16) For the Director of the Office of Zoning, the personnel authority shall be the District members of the Zoning Commission for the District of Columbia, and for any other employee of the Office of Zoning the personnel authority shall be the Director of the Office of Zoning;

(17) For employees of the Child and Family Services Agency, the personnel authority is the Director of the Child and Family Services Agency;

(18) For employees of the Criminal Justice Coordinating Council, the personnel authority is the Criminal Justice Coordinating Council;

(19) For employees of the District of Columbia Sentencing and Criminal Code Revision Commission, the personnel authority is the District of Columbia Sentencing and Criminal Code Revision Commission;

(20) For employees of the Department of Mental Health, the personnel authority is the Director of the Department of Mental Health;

(21) For the Director of the Alcoholic Beverage Regulation Administration, the personnel authority shall be the members of the Alcoholic Beverage Control Board for the District of Columbia, and for any other employee of the Alcoholic Beverage Regulation Administration, the personnel authority shall be the Director of the Alcoholic Beverage Regulation Administration; and

(22) For employees of the State Board of Education, the personnel authority is the State Board of Education.

(Mar. 3, 1979, D.C. Law 2-139, § 406, 25 DCR 5740; Feb. 26, 1981, D.C. Law 3-119, § 5, 27 DCR 5641; Aug. 2, 1983, D.C. Law 5-24, § 12(a), 30 DCR 3341; Feb. 24, 1987, D.C. Law 6-177, § 3(g), 33 DCR 7241; Feb. 28, 1987, D.C. Law 6-205, § 2(a), 34 DCR 670; Mar. 16, 1989, D.C. Law 7-228, § 2(b), 36 DCR 754; Mar. 24, 1990, D.C. Law 8-97, § 3(b), 37 DCR 1046; May 15, 1990, D.C. Law 8-127, § 2(a), 37 DCR 2093; Sept. 20, 1990, D.C. Law 8-163, § 6, 37 DCR 4676; Aug. 1, 1996, D.C. Law 11-152, § 302(f), 43 DCR 2978; June 10, 1998, D.C. Law 12-124, § 101(c), 45 DCR 2464; Apr. 12, 2000. D.C. Law 13-91, § 103(e), 47 DCR 520; Apr. 4, 2001, D.C. Law 13-277, § 3(b)(2), 48 DCR 2043; Oct. 3,

2001, D.C. Law 14-28, §§ 1507(a)(1), 3803(a), 48 DCR 6981; Dec. 18, 2001, D.C. Law 14-56, § 116(a)(2), 48 DCR 7674; Mar. 6, 2002, D.C. Law 14-80, § 3, 48 DCR 11268; Mar. 13, 2004, D.C. Law 15-105, §§ 21, 22(a), 23, 51 DCR 881; Sept. 30, 2004, D.C. Law 15-187, § 102(a), 51 DCR 6525; Sept. 30, 2004, D.C. Law 15-190, § 3(a), 51 DCR 6737; Apr. 7, 2006, D.C. Law 16-91, §§ 110(a), 119, 120(a), 52 DCR 10637; June 16, 2006, D.C. Law 16-126, § 3(a), 53 DCR 4709; Mar. 3, 2010, D.C. Law 18-111, § 1103, 57 DCR 181; Apr. 27, 2012, D.C. Law 19-124, § 501(c)(2), 59 DCR 1862; Apr. 27, 2013, D.C. Law 19-284, § 2(a), 60 DCR 2312.)

Section references. — This section is referenced in § 1-606.11, § 1-609.05, and § 50-305.

Effect of amendments.

The 2013 amendment by D.C. Law 19-284 added (b)(22); and made related changes.

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2(a) of the State Board of Education Personnel Authority Amendment of this section Emergency Act of 2013 (D.C. Act 20-46, March 27, 2013, 60 DCR 5453, 20 DCSTAT 545).

Legislative history of Law 19-284. — Law 19-284, the "State Board of Education Personnel Authority Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-774. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-651 and transmitted to Congress for its review. D.C. Law 19-284 became effective on April 27, 2013.

Subchapter V. Public Employee Relations Board.

§ 1-605.01. Establishment of Board; qualifications; composition; term of office; removal; vacancies; conflict of interest; compensation; attendance at meetings; appointment of employees; request for appropriations; quorum.

Section references. — This section is referenced in § 1-523.01, § 1-636.02, and § 6-201.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-605.02. Powers of the Board.

The Board shall have the power to do the following:

(1) Resolve unit determination questions and other representation issues (including but not limited to disputes concerning the majority status of a labor organization);

(2) Certify and decertify exclusive bargaining representatives;

(3) Decide whether unfair labor practices have been committed and issue an appropriate remedial order;

(4) Resolve bargaining impasses through fact-finding, final and binding arbitration, or other methods agreed upon by the parties as approved by the

Board and to remand disputes if it believes further negotiations are desirable. Arbitration shall not be conducted by the Board itself, but the Board shall provide arbitrators selected at random from a panel or list of arbitrators maintained by the Board and consisting of persons agreed upon by labor and management;

(5) Make a determination in disputed cases as to whether a matter is within the scope of collective bargaining;

(6) Consider appeals from arbitration awards pursuant to a grievance procedure; provided, however, that such awards may be modified or set aside or remanded, in whole or in part, only if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means; provided, further, that the provisions of this paragraph shall be the exclusive method for reviewing the decision of an arbitrator concerning a matter properly subject to the jurisdiction of the Board, notwithstanding any provisions of Chapter 44 of Title 16 of the District of Columbia Official Code;

(7) Conduct investigations, hear testimony, and take evidence under oath at hearings on any matter subject to its jurisdiction;

(8) Administer oaths or affirmations and through the power of subpoena, require the attendance of witnesses with any necessary records or other information which have a bearing on the dispute, without, however, abrogating rules and regulations abridging the confidentiality of personnel files as provided in subchapter XXXI of this chapter;

(9) Make decisions and take appropriate action on charges of failure to adopt, subscribe, or comply with the internal or national labor organization standards of conduct for labor organizations;

(10) Make recommendations concerning desirable revisions or amendments to the District government labor relations law;

(11) Adopt rules and regulations for the conduct of its business and the carrying out of its powers and duties;

(12) The Board may designate a 3-member panel to hear any matter brought to it under this chapter. The decision of the 3-member panel shall be considered the final decision of the Board. An appeal from a decision of any 3-member panel may be taken in accordance with the provisions of §§ 1-617.02 and 1-617.13;

(13) Establish and maintain a list of qualified mediators, fact finders and arbitrators after consulting with employee organizations and management representatives, and appoint them;

(14) Retain, through the Director of the Office of Contracting and Procurement, independent legal counsel to assist in Board activities when the District government is a party to the Board's proceedings or in any other situation as the Board deems appropriate;

(15) Develop a system for the collection, maintenance, and dissemination of labor-management relations information as appropriate to the needs of the District, labor organizations, and the public; and

(16) Seek appropriate judicial process to enforce its orders and otherwise carry out its authority under this chapter. In cases of contumacy by any party

or other delay or impediment of any character, the Board may seek any and all such judicial process or relief as it deems necessary to enforce and otherwise carry out its powers, duties and authority under this chapter.

(17) Notwithstanding any other provision of this section, all procurement authority shall be vested in the Office of Contracting and Procurement; provided, that the Mayor's obligations pursuant to § 1-204.49, to provide financial review and approval of contracts is unaffected.

(Mar. 3, 1979, D.C. Law 2-139, § 502, 25 DCR 5740; Apr. 12, 1997, D.C. Law 11-259, § 304(a), 44 DCR 1423; Sept. 18, 1998, D.C. Law 12-151, § 2(a), 45 DCR 4043; Apr. 12, 2000. D.C. Law 13-91, § 103(f), 47 DCR 520; Sept. 26, 2012, D.C. Law 19-171, § 9(b), 59 DCR 6190.)

Section references. — This section is referenced in § 1-636.02 and § 6-215.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "notwithstanding any provisions of Chapter 44 of Title 16 of the District of Columbia Code" for "notwithstanding any provisions of the District of Columbia Uniform Arbitration Act (D.C. Official Code § 16-4301 to 16-4319)" in (6).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

CASE NOTES

Analysis

Exhaustion of administrative remedies.
Jurisdiction.
Ripeness.

Exhaustion of administrative remedies.

District of Columbia employees' claim for defamation by conduct was foreclosed by District of Columbia Comprehensive Merit Personnel Act (CMPA); one employee neither pled nor argued she exhausted her administrative remedies under either of CMPA's two approved methods, and while two other employees triggered collective bargaining agreement (CBA) method of CMPA exhaustion by timely filing grievance in writing in accordance with provision of negotiated grievance procedure, after their Stage 2 grievance hearings were cancelled they did not proceed to final three steps of grievance procedure which culminate in arbitration, nor did they plead that they appealed any arbitration decision to Public Employee Relations Board. Saint-Jean v. District of Columbia, 846 F.Supp.2d 247, 2012 U.S. Dist. LEXIS 30445 (2012).

Jurisdiction.

Action filed against the District of Columbia by former public-school teachers was properly dismissed for lack of subject-matter jurisdiction because the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., gave the District of Columbia Public Employee Relations Board exclusive primary jurisdiction over unfair-labor-practice claims, regardless of whether the alleged violation occurred while the teacher was a District employee. Battle v. District of Columbia, 80 A.3d 1036, 2013 D.C. App. LEXIS 791 (2013).

Ripeness.

Superior Court of the District of Columbia had jurisdiction to grant a stay of arbitration because the District of Columbia Comprehensive Merit Personnel Act, D.C. Code §§ 1-601.01 to 1-636.03, did not preempt the District of Columbia Revised Uniform Arbitration Act, D.C. Code §§ 16-4401 to 16-4432 (2012), as to this type of pre-arbitration relief. Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

Subchapter VI. Office of Employee Appeals.

§ 1-606.01. Establishment of the Office of Employee Appeals; composition; qualifications; term of office; vacancies; Chairperson; quorum; appeal procedure; conflict of interest; compensation; appointment of employees; expenditures; removal; exclusivity of position.

Section references. — This section is referenced in § 1-523.01, § 1-606.11, § 1-636.02, and § 2-352.03.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-606.03. Appeal procedures.

Section references. — This section is referenced in § 1-606.11 and § 1-616.52.

CASE NOTES

ANALYSIS

Construction.
Due process of law.
Exhaustion of remedies.

Construction.

Under local rules, a litigant would have 30 days from a District of Columbia Office of Employee Appeals (OEA) order under D.C. Code § 1-606.03(d) to bring an action for judicial enforcement of a ruling against a recalcitrant agency, D.C. Super Ct. Civ. P. Rules, Title XV, Rule 1; such a scheme cannot constitute a meaningful post-deprivation remedy, because it irrationally and unfairly would put the onus of immediately filing an action on an employee who had just received a favorable ruling from the OEA within a short time. Such a scheme would render OEA orders meaningless, as it would allow an agency to grasp victory from the jaws of defeat and nullify an adverse order merely by doing nothing for 31 days. Steinberg v. District of Columbia, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 157134 (D.D.C. Nov. 2, 2012).

Due process of law.

In an action in which former employees alleged that the statutory scheme prescribed by the Comprehensive Merit Protection Act, D.C. Code § 1-601.01 et seq., denied the employees an opportunity to be heard after their terminations, the District of Columbia did not violate the employees' Fifth Amendment procedural due process rights because the employees did not establish that the process available to them was inadequate or that they were denied such process. Badgett v. Dist. of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 25044 (D.D.C. Feb. 25, 2013).

Evidence was sufficient to raise a triable issue of whether plaintiff had a liberty interest in future employment that could not be taken without an opportunity to be heard; still, he had to show that this deprivation occurred without due process. The Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., provided adequate relief because it permitted him to challenge allegations against him and clear his name. McCormick v. District of Columbia, 899 F. Supp. 2d 59, 2012 U.S. Dist. LEXIS 151512 (D.D.C. Oct. 22, 2012).

Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., satisfies the Due Process requirements of a name-clearing hearing for a plaintiff deprived of a constitutionally protected liberty interest in professional employment in a chosen field. McCormick v. District of Columbia, 899 F. Supp. 2d 59, 2012 U.S. Dist. LEXIS 151512 (D.D.C. Oct. 22, 2012).

Exhaustion of remedies.

District court would treat as moot issue of

whether former District of Columbia employee exhausted her administrative remedies before suing under Comprehensive Merit Personnel System Act (CMPA); issue of exhaustion was raised in District's first motion for summary judgment, District asserted that Office of Employee Appeals (OEA) ALJ's determination became final, it did not revisit exhaustion in its second motion for summary judgment, and it could not resurrect issue in motion in limine. Owens v. District of Columbia, 2012 WL 2873945 (2012).

District of Columbia employees' claim for defamation by conduct was foreclosed by District of Columbia Comprehensive Merit Personnel Act (CMPA); one employee neither pled nor argued she exhausted her administrative remedies under either of CMPA's two approved methods, and while two other employees triggered collective bargaining agreement (CBA) method of CMPA exhaustion by timely filing grievance in writing in accordance with provision of negotiated grievance procedure, after their Stage 2 grievance hearings were cancelled they did not proceed to final three steps of grievance procedure which culminate in arbitration, nor did they plead that they appealed any arbitration decision to Public Employee Relations Board. Saint-Jean v. District of Columbia, 846 F.Supp.2d 247, 2012 U.S. Dist. LEXIS 30445 (2012).

§ 1-606.04. Agency hearing procedures.

Section references. — This section is referenced in § 1-606.05.

CASE NOTES

Standard of review.

Genuine issues of material fact as to whether District of Columbia Metropolitan Police Department (MPD) employee's evidentiary hearing was de novo hearing, and regardless of standard of review used by Office of Employee Appeals (OEA) ALJ, whether hearing was sufficient to satisfy procedural due process, precluded summary judgment on employee's § 1983 claim against District predicated on that violation. Owens v. District of Columbia, 2012 WL 2873945 (2012).

Subchapter VIII. Career Service.

§ 1-608.01. Creation of Career Service.

(a) The Mayor shall issue rules and regulations governing employment, advancement, and retention in the Career Service which shall include all persons appointed to positions in the District government, except persons appointed to positions in the Excepted, Executive, Educational, Management Supervisory, or Legal Service. The Career Service shall also include, after January 1, 1980, all persons who are transferred into the Career Service pursuant to the provisions of subsection (c) of § 1-602.04. The rules and regulations governing Career Service employees shall be indexed and cross referenced to the incumbent classification system and shall provide for the following:

(1) A positive recruitment program designed to meet current and projected personnel needs;

(2) Open competition for initial appointment to the Career Service;

(3) Examining procedures designed to achieve maximum objectivity, reliability, and validity through a practical assessment of attributes necessary to successful job performance and career development as provided in subchapter VII of this chapter;

(4) Appointments to be made on the basis of merit by selection from the highest qualified available eligibles based on specific job requirements, from

appropriate lists established on the basis of the provisions of paragraphs (1), (2), and (3) of this subsection with appropriate regard for affirmative action goals and veterans preference as provided in subchapter VII of this chapter;

(5) Appointments made without time limitation in accordance with paragraph (4) of this subsection, as permanent Career Service status appointments upon satisfactory completion of a probationary period of at least 1 year;

(6) Temporary, term, and other time-limited appointments, in appropriate cases, which do not confer permanent status but are to be made, insofar as practicable, in accordance with paragraph (4) of this subsection, except that such appointments to positions at the DS-12 level or equivalent or below may be made non-competitively;

(7) Appointments to continuing positions (in the absence of lists of eligibles), which do not confer permanent status, subject to meeting minimum qualification standards and subject to termination as soon as lists of qualified eligibles for permanent appointment can be established in accordance with paragraph (4) of this subsection;

(8) Emergency appointments for not more than 30 days to provide for maintenance of essential services in situations of natural disaster or catastrophes where normal employment procedures are impracticable;

(9) Promotions of permanent employees, giving due consideration to demonstrated ability, quality, and length of service;

(10) Reinstatements, reassignments, and transfers of employees with permanent status;

(11) Establishment of programs, including trainee programs, designed to attract and utilize persons with minimal qualifications, but with potential for development, in order to provide career development opportunities for members of disadvantaged groups, persons with disabilities, women, and other appropriate target groups. These programs may provide for permanent appointments to trainee or similar positions through competition limited to these persons;

(12) Reduction-in-force procedures, with:

(A) A prescribed order of separation based on tenure of appointment, length of service, including creditable federal and military service, District residency, veterans preference, and officially documented work performance;

(B) Priority reemployment consideration for employees separated;

(C) Consideration of job sharing and reduced hours; and

(D) Employee appeal rights; and

(13) Separations for cause, which shall be subject to the adverse action and appeal procedures provided for in subchapter XVI-A of this chapter.

(b) Selections to the Career Service shall be made in accordance with equal employment opportunity principles as set forth in subchapter VII of this chapter.

(c) Repealed.

(d) The Mayor may issue separate rules and regulations concerning the personnel system affecting members of the uniform services of the Police and Fire Departments which may provide for a probationary period of at least 1 year. Other such separate rules and regulations may only be issued to carry out

provisions of this chapter which accord such member of the uniform services of the Police and Fire Departments separate treatment under this chapter. Such separate rules and regulations are not a bar to collective bargaining during the negotiation process between the Mayor and the recognized labor organizations for the Metropolitan Police and Fire Departments, but shall be within the parameters of § 1-617.08.

(d-1) For members of the Metropolitan Police Department and notwithstanding § 1-632.03(1)(B) or any other law or regulation, the Assistant and Deputy Chiefs of Police and inspectors shall be selected from among the captains of the force and shall be returned to the rank of captain when the Mayor so determines.

(d-2)(1) The Chief of Police shall recommend to the Director of Personnel criteria for Career Service promotions and Excepted Service appointments to the positions of Inspector, Commander, and Assistant Chief of Police that address the areas of education, experience, physical fitness, and psychological fitness. The recommended criteria shall be the same for Career Service promotions and Excepted Service appointments to these positions. When establishing the criteria, the Chief of Police shall review national standards, such as the Commission on Accreditation for Law Enforcement Agencies.

(2) All candidates for the positions of Inspector, Commander, and Assistant Chief of Police shall be of good standing with no disciplinary action pending or administered resulting in more than a 14-day suspension or termination within the past 3 years.

(d-3)(1) The Fire Chief shall recommend to the Mayor criteria for Career Service promotions and Excepted Service appointments to the positions of Battalion Fire Chief and Deputy Fire Chief that address the areas of education, experience, physical fitness, and psychological fitness. The recommended criteria shall be the same for Career Service promotions and Excepted Service appointments to these positions. When establishing the criteria, the Fire Chief shall review national standards, such as the National Fire Protection Association's Standard on Fire Officer Professional Qualifications.

(2) All candidates for the positions of Battalion Fire Chief and Deputy Fire Chief shall be of good standing with no disciplinary action pending or administered resulting in more than a 14-day suspension or termination within the past 3 years.

(e)(1) Notwithstanding any provision of Unit A of Chapter 14 of Title 2, an applicant for District government employment in the Career Service who is a bona fide resident of the District at the time of application shall be given a 10-point hiring preference over a nonresident applicant unless the applicant declines the preference. This preference shall be in addition to, and not instead of, qualifications established for the position.

(2) An applicant claiming a hiring preference shall submit 8 proofs of bona fide residency in a manner determined by the Mayor. If hired, the employee shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of bona fide residency annually to the director of personnel for the agency or instrumentality for the first 7 years of employment. Failure to maintain District

residency for the consecutive 7-year period shall result in forfeiture of employment.

(3) Any individual hired under a previous residency law who was subject to a residency requirement shall be treated as if the individual claimed a preference and was hired pursuant to the Residency Preference Amendment Act of 1988 [D.C. Law 7-203].

(4) In reductions-in-force, a resident District employee shall be preferred for retention and reinstatement of employment over a non-resident District employee. For purposes of this paragraph only, a non-resident District employee hired prior to January 1, 1980, shall be considered a District resident. When the provisions of this paragraph conflict with an effective collective bargaining agreement, the terms of the collective bargaining agreement shall govern.

(5) A District employee hired in the Career Service prior to March 16, 1989, who elects to apply for a competitive promotion in the Career Service and to claim a preference, shall be bound by the provisions of paragraph (2) of this subsection.

(6) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the preference system established by this subsection. The proposed rules shall be submitted to the Council no later than February 1, 1989, for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 7 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.

(e-1)(1) Notwithstanding any provision of Chapter 14 of Title 2 [§ 2-1401.01 et seq.], an applicant for District government employment in the Career Service shall be given a 10-point hiring preference if, at the time of application, the applicant:

(A) Is within 5 years of leaving foster care under the Child and Family Services Agency and is a resident of the District; or

(B)(i) Is currently in the foster care program administered by the Child and Family Services Agency; and

(ii) Is at least 18 years old and not more than 21 years old, regardless of residency.

(2) An applicant claiming a hiring preference pursuant to this subsection shall submit proof of eligibility for the preference by submitting to the hiring authority a letter or other document issued by the Child and Family Services Agency or the Family Court of the Superior Court of the District of Columbia showing that the applicant is or was in foster care or showing the date the applicant left court supervision.

(3) An applicant who receives a hiring preference pursuant to this subsection and who is a resident of the District shall remain eligible to receive any other preference available under this chapter in addition to the preference received pursuant to this subsection.

(4) For the purposes of this subsection, the term "foster care" shall have the same meaning as provided in § 4-342(2).

(5) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this subsection. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within the 30-day review period, the proposed rules shall be deemed approved.

(f) Repealed.

(g) Each subordinate agency head shall submit to the Mayor and the Council quarterly reports detailing the names of all new employees and their pay schedules, titles, and place of residence. The report shall explain the reasons for employment of non-District residents. The Mayor shall integrate into each subordinate agency's yearly performance objectives the rate of success in hiring District residents. The Mayor shall conduct annual audits of each subordinate agency's personnel records to ensure that all persons claiming a residency preference at time of hiring complies with the provisions of subsection (e)(2) of this section. Audit reports shall be submitted annually to the Council.

(Mar. 3, 1979, D.C. Law 2-139, § 801, 25 DCR 5740; Aug. 1, 1979, D.C. Law 3-14, § 2(a), 25 DCR 10565; Aug. 7, 1980, D.C. Law 3-81, § 2(g), 27 DCR 2632; May 22, 1981, D.C. Law 4-2, § 2(a)-(c), 28 DCR 2586; Apr. 3, 1982, D.C. Law 4-92, § 2(a)-(c), 29 DCR 745; Aug. 1, 1985, D.C. Law 6-15, § 7(a), 32 DCR 3570; Mar. 16, 1989, D.C. Law 7-203, § 2(a), 36 DCR 450; Nov. 21, 1989, 103 Stat. 1277, Pub. L. 101-168, § 110B(b)(1); June 10, 1998, D.C. Law 12-124, § 101(e), 45 DCR 2464; July 24, 1998, D.C. Law 12-138, § 2(a), 45 DCR 2972; Oct. 21, 1998, 112 Stat. 2681-146, Pub. L. 105-277, § 153; Apr. 20, 1998, D.C. Law 12-260, § 2(c), 46 DCR 1318; Apr. 12, 2000. D.C. Law 13-91, § 103(h), 47 DCR 520; Oct. 19, 2000, D.C. Law 13-172, § 822(a), 47 DCR 6308; Sept. 30, 2004, D.C. Law 15-194, § 104(a), 51 DCR 9406; Apr. 24, 2007, D.C. Law 16-305, § 3(d), 53 DCR 6198; Feb. 6, 2008, D.C. Law 17-108, § 203(d), 54 DCR 10993; Sept. 12, 2008, D.C. Law 17-231, § 3(c), 55 DCR 6758; Mar. 25, 2009, D.C. Law 17-353, § 223(c)(2), 56 DCR 1117; Mar. 14, 2012, D.C. Law 19-115, § 2(a), 59 DCR 461; July 13, 2012, D.C. Law 19-162,§ 3, 59 DCR 5713.)

Section references. — This section is referenced in § 1-602.01, § 1-602.02, § 1-602.04, § 1-608.59, § 1-609.57, § 4-1303.03, § 34-801, and § 50-2301.04.

Effect of amendments.

D.C. Law 19-162 added subsec. (e-1).

Legislative history of Law 19-162. — Law 19-162, the "Foster Care Youth Employment Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-691, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 16, 2012, it was assigned Act No. 19-372 and transmitted to both Houses of Congress for its review. D.C. Law 19-162 became effective on July 13, 2012.

Subchapter VIII-A. Educational Service.

§ 1-608.01a. Creation of the Educational Service.

(a) For the purpose of this subchapter, the term "Board" means the Board of Trustees of the University of the District of Columbia for educational employees of the University of the District of Columbia.

(b) The Board shall issue rules and regulations governing employment, advancement, and retention in the Educational Service, which shall include all educational employees of the District of Columbia employed by the Board. The rules and regulations shall be indexed and cross referenced as to the incumbent classification and compensation system.

(1) *University of the District of Columbia.* — In keeping with the purpose of this chapter, the Board of Trustees of the University of the District of Columbia shall issue rules and regulations embodying principles of merit and equal employment governing, among others, appointment, promotion, retention, reassignment, professional development and training, classification, and salary administration (except as provided in § 1-602.03), employee benefits, reduction-in-force, adverse action, grievances, and appeals, provided that such rules and regulations concerning adverse actions and regulations covering adverse actions and appeals shall be consistent with subchapters V, VI, VII, XVII-A and XVII of this chapter.

(2)(A)(i) Excluding those employees in a recognized collective bargaining unit, those employees appointed before January 1, 1980, those employees who are based at a local school or who provide direct services to individual students, and those employees required to be excluded pursuant to a court order (collectively, "Excluded Employees"), a person appointed to a position within the Educational Service shall serve without job tenure.

(ii) Except for Excluded Employees, the provisions of this paragraph shall apply to all nonschool-based personnel, as defined in § 1-603.01(13C), including:

(I) All Educational Service employees within the District of Columbia Public Schools ("DCPS");

(II) Repealed.

(III) All Educational Service employees within the Office of the State Superintendent of Education.

(B)(i) A person employed within the Educational Service in DCPS, the Office of the State Superintendent of Education as of January 22, 2008, who is not an Excluded Employee shall be reappointed noncompetitively to the Educational Service, in accordance with subparagraph (A) of this paragraph. A person employed by the Office of the State Superintendent of Education ("OSSE") as of August 16, 2008, who is not an Excluded Employee, shall be reappointed noncompetitively to the Educational Service, in accordance with subparagraph (A) of this paragraph.

(ii) Within 30 days of January 22, 2008, or in the case of employees employed by the OSSE before August 16, 2008, within 30 days of August 16, 2008, the Mayor shall notify in writing each employee of his or her reappoint-

ment. The employee shall accept or decline such reappointment within 10 days of receipt of the reappointment notice.

(iii) A person declining such reappointment shall receive a written 15-day separation notice and shall be entitled to severance pay pursuant to § 1-624.09.

(iv) An employee who accepts reappointment who is subsequently terminated shall be terminated in accordance with subparagraph (C)(ii) and (iii) of this paragraph.

(C)(i) A person employed within the Educational Service in DCPS, or the Office of the State Superintendent of Education who is not an Excluded Employee, shall be a probationary employee for one year from his or her date of hire ("probationary period") and may be terminated without notice or evaluation.

(ii) Following the probationary period, an employee may be terminated, at the discretion of the Mayor; provided, that the employee has been provided a 15-day separation notice and has had at least one evaluation within the preceding 6 months, a minimum of 30 days prior to the issuance of the separation notice.

(iii) An employee terminated for non-disciplinary reasons may be given severance pay in accordance with § 1-609.03(f).

(D) The Mayor may terminate without notice or evaluation an employee for the following reasons:

(i) Conviction of a felony at any time following submission of an employee's job application;

(ii) Conviction of another crime at any time following submission of an employee's job application when the crime is relevant to the employee's position, job duties, or job activities;

(iii) Commission of any knowing or negligent material misrepresentation on an employment application or other document given to a government agency;

(iv) Commission of any on-duty or employment-related act or omission that the employee knew or reasonably should have known is a violation of law; or

(v) Commission of any on-duty or employment-related act that is gross insubordination, misfeasance, or malfeasance.

(E) A terminated employee shall retain his or her veterans preference eligibility, if any, in accordance with federal laws and regulations issued by the United States Office of Personnel Management but shall be separated without competition, assignment rights, retreat rights, a right to re-assignment under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to section 2400 of the District of Columbia Personnel Manual, or a right to any internal or administrative review, subject to any right under the Unit A of Chapter 14 of Title 2 [§ 2-1401.01 et seq.], federal law, or common law.

(F)(i) The Mayor shall establish:

(I) A positive recruitment program designed to meet current and projected personnel needs;

(II) A procedure for open competition for initial appointment to the Educational Service, designed to achieve maximum objectivity, reliability, and validity through a practical assessment of attributes necessary to successful job performance and career development, and appointments of persons, made on the basis of merit, by selection from the highest qualified available eligible persons based on specific job requirements, with appropriate regard for affirmative-action goals and veterans preference as provided in subchapter VII of this chapter; and

(III) Written position descriptions for each position within the Educational Service and a process for updating the descriptions to maintain accurate and current position descriptions.

(ii) The Mayor shall provide a written copy of the relevant position description to each new employee and to each reappointed employee upon employment or reappointment.

(G) Appointments to the Educational Service of persons shall be made in accordance with equal employment opportunity principles, as set forth in subchapter VII of this chapter.

(H) Temporary and other time-limited appointments, which do not confer permanent status, may be made in appropriate cases, at the discretion of the Mayor, including emergency appointments to provide for the maintenance of essential services in situations of natural disaster or catastrophes, where normal-employment procedures are impracticable.

(I) Within 180 days of January 22, 2008, the Mayor shall submit a list to the Council, for informational purposes, of those people employed within the Educational Service in DCPS, the Office of the State Superintendent of Education, and the Office of Public Education Facilities Modernization as of January 22, 2008, who, pursuant to subparagraph (B) of this paragraph, declined reappointment and were terminated and who accepted reappointment but were subsequently terminated. The Mayor shall maintain a database of this information on an ongoing basis to be submitted to the Council pursuant to section 5 of the Public Education Personnel Reform Amendment Act of 2008, effective March 20, 2008 (D.C. Law 17-122; 55 DCR 1506).

(J)(i) The Mayor shall establish reduction-in-force procedures, including:

(I) A prescribed order of separation based on District residency and veterans preference;

(II) Priority reemployment consideration of separated employees; and

(III) Job sharing and reduced hours, if feasible.

(ii) Notwithstanding any other provision of law or regulation, an Excluded Employee or a nonschool-based employee shall not be assigned or reassigned to replace a classroom teacher.

(iii) For the purposes of this subparagraph, the term "reduction-in-force" means a reduction in personnel, the need for which shall be declared by the Mayor, that is necessary due to a lack of funding or the discontinuance of a department, program, or function of an agency. A reduction-in-force shall not be considered a punitive or corrective action as it relates to an employee

separated pursuant to the reduction in force and no blemish on an employee's record shall ensue.

(3) Repealed.

(c)(1) For the purpose of this subsection, "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, spouse, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2) A public official who appoints, employs, promotes, or advances, or advocated such appointment, employment, promotion, or advancement of any individual in violation of this subsection shall reimburse the District for any funds improperly paid to such individual.

(3) The Board may issue rules and regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this subsection.

(4) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which he or she is serving or over which he or she exercises jurisdiction or control, any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official who is serving in or exercising jurisdiction or control over the agency, and is a relative of the individual.

(d)(1) Notwithstanding any provision of Unit A of Chapter 14 of Title 2, an applicant for District government employment in the Educational Service who is a bona fide resident of the District at the time of application shall be given a 10-point hiring preference over a nonresident applicant unless the applicant declines the preference. This preference shall be in addition to, and not instead of, qualifications established for the position.

(2) An applicant claiming a hiring preference shall submit 8 proofs of bona fide residency in a manner determined by the Mayor or the Board. If hired, the employee shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of bona fide residency annually to the director of personnel for the agency for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment.

(3) Any individual hired under a previous residency law who was subject to a residency requirement shall be treated as if the individual claimed a preference and was hired pursuant to the Residency Preference Amendment Act of 1988.

(4) In reductions-in-force, a resident District employee shall be preferred for retention and reinstatement of employment over a non-resident District employee. For purposes of this paragraph only, a non-resident District employee hired prior to January 1, 1980, shall be considered a District resident.

When the provisions of this paragraph conflict with an effective collective bargaining agreement, the terms of the collective bargaining agreement shall govern.

(5) A District employee hired in the Educational Service prior to March 16, 1989, who elects to apply for a competitive promotion in the Educational Service and to claim a preference, shall be bound by the provisions of paragraph (2) of this subsection.

(6) The Mayor or the Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the preference system established by this subsection. The proposed rules shall be submitted to the Council no later than February 1, 1989, for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(7)(A) Except as provided in subparagraph (B), the Mayor or the Board may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services.

(B) The Mayor or the Board shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 7 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.

(e) Repealed.

(f) The Board shall submit to the Council quarterly reports detailing the names of all new employees, their pay schedules, titles, and place of residence. The report shall explain the reasons for employment of non-District residents. The Board shall integrate into its yearly performance objectives the rate of success in hiring District residents. The Boards shall conduct annual audits of its personnel records to ensure that all persons claiming a residency preference at time of hiring complies with the provisions of subsection (d)(2) of this section. Audit reports shall be submitted annually to the Council.

(Mar. 3, 1979, D.C. Law 2-139, § 801A, 25 DCR 5740; Aug. 1, 1979, D.C. Law 3-14, 2(b), 25 DCR 25 10565; Aug. 7, 1980, D.C. Law 3-81, § 2(h), 27 DCR 2632; May 22, 1981, D.C. Law 4-2, § 2(d), (e), 28 DCR 2586; Apr. 3, 1982, D.C. Law 4-92, § 2(d), (e), 29 DCR 745; Mar. 14, 1985, D.C. Law 5-159, § 21, 32 DCR 30; Aug. 1, 1985, D.C. Law 6-15, § 7(b), 32 DCR 3570; Feb. 24, 1987, D.C. Law 6-177, § 3(h), 33 DCR 7241; Mar. 16, 1989, D.C. Law 7-203, § 2(b), 36 DCR 450; Nov. 21, 1989, 103 Stat. 1277, Pub. L. 101-168, § 110B(b)(2); Sept. 26, 1995, D.C. Law 11-52, § 1001(b), 42 DCR 3684; Mar. 5, 1996, D.C. Law 11-98, § 301(a), (b), 43 DCR 5; Apr. 26, 1996, 110 Stat. 215, Pub. L. 104-134, § 145(2); Aug. 1, 1996, D.C. Law 11-152, § 302(g), 43 DCR 2978; Sept. 9, 1996, 110 Stat. 2372, Pub. L. 104-194, § 138(2); June 10, 1998, D.C. Law 12-124, § 101(f), 45 DCR 2464; July 24, 1998, D.C. Law 12-138, § 2(b), 45 DCR 2972; Oct. 21, 1998, 112 Stat. 2681-146, Pub. L. 105-277, § 153; Apr. 12, 2000. D.C. Law 13-91, § 103(i), 47 DCR 520; Apr. 24, 2007, D.C. Law 16-305, § 3(e), 53 DCR 6198; Feb. 6, 2008, D.C. Law 17-108, § 203(e), 54 DCR 10993; Mar. 20, 2008, D.C.

Law 17-122, § 2(a), 55 DCR 1506; Aug. 16, 2008, D.C. Law 17-219, §§ 4004(a), 4019(a), 55 DCR 7598; Sept. 12, 2008, D.C. Law 17-231, § 3(d), 55 DCR 6758; Mar. 25, 2009, D.C. Law 17-353, §§ 224(a), 225, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, §§ 9(c), 143, 59 DCR 6190.)

Section references. — This section is referenced in § 1-602.04, § 1-617.09, and § 1-624.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Superintendent of Education" for "Superintendent for Education" throughout (b); and substituted "The board" for "Each Board" in (f).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter IX. Excepted Service.

§ 1-609.02. Nature of positions in the Excepted Service and conversion rights.

(a) Each person holding an excepted appointment under the authority of this section and §§ 1-609.01 and 1-609.03 shall be an individual:

(1) Whose primary duties are of a policy determining, confidential, or policy advocacy nature; and

(2) Who either reports directly to the head of an agency or is placed in the Executive Office of the Mayor or the Office of the City Administrator.

(b) No person holding an Excepted Service appointment pursuant to § 1-609.03 or § 1-609.08 may be appointed to a position in the Career, Management Supervisory, or Educational Service during the period that begins 6 months before the Mayoral primary election and ends 3 months after the Mayoral general election; provided, that an Excepted Service appointee may compete for a position in the Career, Management Supervisory, or Educational Service during this time period; provided further, that, upon termination, a person with Career or Educational Service status may return, at the discretion of the terminating personnel authority, within 3 months of termination to a vacant position in such service for which he or she is qualified.

(c) All persons appointed to the Excepted Service shall be subject to a credit check and a criminal background check, pursuant to the procedures established in Chapter 15 of Title 4 [§ 4-1501.01 et seq.]. The suitability determination shall be made by the appointing personnel authority.

(d) The provisions of this section shall not apply to employees of the Council of the District of Columbia.

(Mar. 3, 1979, D.C. Law 2-139, § 902, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(i), 27 DCR 2632; June 10, 1998, D.C. Law 12-124, § 101(g), 45 DCR 2464; Mar. 14, 2012, D.C. Law 19-115, § 2(c), 59 DCR 461; Sept. 20, 2012, D.C. Law 19-168, § 1092(a), 59 DCR 8025.)

Section references. — This section is referenced in § 1-609.04.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (d).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1092(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1092(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 1-609.03. Number of Excepted Service employees; redelegation of authority to appoint; publication requirement.

(a) Under qualifications issued pursuant to § 1-609.01, each appropriate personnel authority may appoint persons to the Excepted Service as follows:

(1) The Mayor may appoint no more than 160 persons;

(2) The Members of the Council of the District of Columbia may appoint persons to their staffs, except those permanent technical and clerical employees appointed by the Secretary or General Counsel and those in the Legal Service;

(3) The Inspector General may appoint no more than 15 persons;

(4) The District of Columbia Auditor may appoint no more than 4 persons;

(5) The Chief of Police may appoint no more than 6 persons;

(6) The Chief of the Fire and Emergency Medical Services Department may appoint no more than 6 persons;

(7) The Board of Trustees of the University of the District of Columbia may appoint officers of the University, persons who report directly to the President, persons who head major units of the University, academic administrators, and persons in a confidential relationship to the foregoing, exclusive of those listed in the definition of the Educational Service; provided, that the total number of persons appointed by the University to the Excepted Service shall not exceed 20;

(8) The Criminal Justice Coordinating Council may appoint no more than 9 persons;

(9) The District of Columbia Sentencing and Criminal Code Revision Commission may appoint no more than 10 persons;

(10) The State Board of Education may appoint staff to serve an administrative role for the elected members of the Board; provided, that funding is available and that at least 3 full-time equivalent employees are appointed to the Office of Ombudsman for Public Education.

(11) Each other personnel authority not expressly designated in paragraphs (1) through (10) of this subsection may appoint 2 persons.

(b) The authority to appoint persons to the Excepted Service, which is vested in subsection (a) of this section, may be redelegated, in whole or in part.

(c) Within 45 days of actual appointment and within 45 days of any change in such appointment, the names, position titles, and agency placements of all

persons appointed to Excepted Service positions under the authority of this section shall be:

(1) Published in the District of Columbia Register; and

(2) Posted online on a website accessible to the public.

(d) At the discretion of the personnel authority, an individual appointed to the Excepted Service at grade level DS-11 or above pursuant to this section:

(1) May be paid in accordance with the pay schedule for the Management Supervisory Service as provided in § 1-609.56; and

(2) May be placed in any step of the appropriate grade of that schedule.

(e) The personnel authority may authorize performance incentives for exceptional service for individuals appointed pursuant to this section not to exceed 10% of the rate of basic pay in any year. Such exceptional service incentives may be paid only when the Excepted Service employee is bound by a performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is paid.

(f) An individual appointed to the Excepted Service pursuant to this section or § 1-609.08 may be paid severance pay upon separation for non-disciplinary reasons according to the length of the individual's employment with the District government as follows:

Length of Employment	Maximum Severance
Up to 6 months	2 weeks of the employee's basic pay
6 months to 1 year	4 weeks of the employee's basic pay
1 to 3 years	8 weeks of the employee's basic pay
More than 3 years	10 weeks of the employee's basic pay.

(g)(1) Pursuant to regulations as the Mayor may prescribe, the following expenses may be paid to an individual being interviewed for, or an appointee to, a hard-to-fill Excepted Service position at a DS-11 or above:

(A) Reasonable pre-employment travel expenses;

(B) Reasonable relocation expenses for the Excepted Service selectee or appointee and his or her immediate family if they relocate to the District of Columbia from outside the Greater Washington Metropolitan Area; and

(C) A reasonable temporary housing allowance, for a period not to exceed 60 days, for the Excepted Service selectee or appointee and his or her immediate family.

(2) In no event shall the sum of pre-employment travel expenses, relocation expenses, and temporary housing allowance exceed $10,000 or 10% of the appointee's salary, whichever is less.

(h) Within 90 days of September 10, 1999, and notwithstanding any other law or regulation, the Mayor shall submit to the Council for approval under the provisions of § 1-611.06, regulations establishing the Metropolitan Police Department Excepted Service Sworn Employees" Compensation System. Such regulations shall establish policies and procedures governing the compensation, promotion, transfer, and demotion of Metropolitan Police Department excepted service sworn employees appointed pursuant to section § 1-609.03(a)(2).

(Mar. 3, 1979, D.C. Law 2-139, § 903, 25 DCR 5740; Aug. 2, 1983, D.C. Law

5-24, § 12(b), 30 DCR 3341; Feb. 24, 1987, D.C. Law 6-177, § 3(i), 33 DCR 7241; Feb. 28, 1987, D.C. Law 6-205, § 2(b), 34 DCR 670; Aug. 1, 1996, D.C. Law 11-152, § 302(h), 43 DCR 2978; June 10, 1998, D.C. Law 12-124, § 101(h), 45 DCR 2464; Mar. 26, 1999, D.C. Law 12-175, § 302, 45 DCR 7193; Sept. 10, 1999, D.C. Law 13-27, § 2(a), 46 DCR 5315; Mar. 7, 2000, D.C. Law 13-52, § 2, 46 DCR 9911; Oct. 19, 2000, D.C. Law 13-172, § 2402(a), 47 DCR 6308; Oct. 3, 2001, D.C. Law 14-28, §§ 1002, 1507(a)(2), 3803(b), 48 DCR 6981; Sept. 30, 2004, D.C. Law 15-190, § 3(b), 51 DCR 6737; Apr. 7, 2006, D.C. Law 16-91, § 110(c), 52 DCR 10637; June 16, 2006, D.C. Law 16-126, § 3(b), 53 DCR 4709; Mar. 20, 2008, D.C. Law 17-122, § 2(b), 55 DCR 1506; Mar. 14, 2012, D.C. Law 19-115, § 2(d), 59 DCR 461; Apr. 27, 2013, D.C. Law 19-284, § 2(b), 60 DCR 2312; Dec. 24, 2013, D.C. Law 20-61, §§ 1072(a), 4062, 60 DCR 12472.)

Cross references. — D.C. Law 19-284 is published at 20 DCSTAT 927.

D.C. Law 20-61 is published at 20 DCSTAT 2229.

Section references. — This section is referenced in § 1-604.06, § 1-608.01a, § 1-609.02, § 1-609.58, § 1-611.11, and § 1-1161.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-284 added (a)(10); redesignated former (a)(10) as (a)(11); and substituted "paragraphs (1) through (10)" for "paragraphs (1) through (9)" in (a)(11).

The 2013 amendment by D.C. Law 20-61, § 1072(a), deleted "no more than 2 of whom may be appointed or detailed to a single agency, other than the Executive Office of the Mayor or the Office of the City Administrator" following "persons" in (a)(1); and substituted "10 persons" for "6 persons" in (a)(9).

The 2013 amendment by D.C. Law 20-61, § 4062, rewrote (a)(10).

Emergency legislation.

For temporary (90 day) amendment of section, see § 1092(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1092(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 2(b) of the State Board of Education Personnel Authority Amendment of this section Emergency Act of 2013 (D.C. Act 20-46, March 27, 2013, 60 DCR 5453, 20 DCSTAT 545).

For temporary (90 days) amendment of this section, see §§ 1072(a) and 4062 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see §§ 1072(a) and 4062 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-284. — See note to § 1-604.06.

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 1071 of D.C. Law 20-61 provided that Subtitle H of Title I of the act may be cited as the "District of Columbia Government Comprehensive Merit Personnel Amendment Act of 2013".

Section 4061 of D.C. Law 20-61 provided that Subtitle F of Title IV of the act may be cited as the "State Board Personnel Amendment Act of 2013".

Editor's notes.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Subchapter X-A. Executive Service.

§ 1-610.52. Executive Service pay schedule.

(a) The Executive Schedule ("DX Schedule"), shall be divided into 5 pay

levels and shall be the basic pay schedule for subordinate agency head positions.

(b)(1) The Mayor shall designate the appropriate pay level within the range of the DX Schedule for each subordinate agency head position.

(2) Notwithstanding paragraph (1) of this subsection, the Council approves the existing level of compensation for the positions of the Chief of the Metropolitan Police Department Cathy Lanier ($253,817), the Chief of the Fire and Emergency Medical Services Department Kenneth Ellerbe ($187,302), the Chancellor of the District of Columbia Public Schools Kaya Henderson ($275,000), and the Chief Medical Examiner Dr. Marie Pierre-Louis ($185,000).

(2A) Notwithstanding paragraph (1) of this subsection, the Council approves the existing level of compensation for the position of Director of the Department of Forensic Sciences Max M. Houck ($203,125).

(3) The levels of compensation as provided in paragraphs (2) and (2A) of this subsection shall be the total annual salary amount that the present officeholder may receive. The officeholder may not receive longevity pay, bonus pay, including performance bonus pay, retention pay, per annum percentage increases for cost-of-living purposes or due to any collective bargaining activity within the officeholder's respective agency or department, or any equivalent financial incentives or salary enhancements; provided, that the Chancellor may be paid an additional income allowance of $12,500, for School Year 2010, in order for the parties to meet the terms and conditions of the November 1, 2010 agreement.

(4) The existing levels of compensation for the positions in paragraphs (2) and (2A) of this subsection shall not be used as the basis for determining the salary of an officeholder in the position of Chief of Police, Fire Chief, Chief Medical Examiner, Chancellor of the District of Columbia Public Schools, who takes office after February 24, 2012, or in the position of Director of the Department of Forensic Sciences, who takes office after June 19, 2013. Each position in paragraphs (2) and (2A) of this subsection shall be subject to compensation within the limits of the DX Schedule, except as provided by this chapter.

(b-1) Notwithstanding subsections (a) and (b) of this Chief Medical Examiner ("CME") shall not exceed $253,000 unless approved by an act of the Council. The level of compensation as provided in this subsection shall be the total annual salary amount that the CME may receive. The CME may not receive longevity pay, bonus pay, including performance bonus pay, retention pay, per annum percentage increases for cost-of-living purposes or due to any collective bargaining activity within the agency, or any equivalent financial incentives or salary enhancements.

(c) Each level shall have a minimum and maximum salary range established by the Mayor, subject to Council review and approval by resolution. Initial salary ranges shall be submitted by the Mayor to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 60-day period, the proposed salary ranges shall be deemed approved.

(d) Any subsequent changes to the salary ranges established pursuant to subsection (c) of this section shall be submitted by the Mayor to the Council for a 15-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 15-day period, the proposed salary ranges shall be deemed approved.

(e) Initial salary ranges and any subsequent changes to the salary ranges shall become effective upon approval and shall be published in the District of Columbia Register for notice purposes within 45 days of their approval.

(Mar. 3, 1979, D.C. Law 2-139, § 1052, as added June 10, 1998, D.C. Law 12-124, § 101(m), 45 DCR 2464; Feb. 24, 2012, D.C. Law 19-83, § 2(a), 58 DCR 11024; June 19, 2013, D.C. Law 19-320, § 501, 60 DCR 3390; Dec. 24, 2013, D.C. Law 20-61, § 1072(b), 60 DCR 12472.)

Cross references. — D.C. Law 19-320 is published at 20 DCSTAT 1210.

D.C. Law 20-61 is published at 20 DCSTAT 2229.

Section references. — This section is referenced in § 1-301.85, § 5-105.01, § 5-402, § 5-541.01, and § 5-544.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-320 substituted "paragraphs (2) and (2A)" for "paragraph (2)" throughout (b); added (b)(2A); and added "or in the position of Director of the Department of Forensic Sciences, who takes office after June 19, 2013" in (b)(4).

The 2013 amendment by D.C. Law 20-61 added (b-1).

Emergency legislation.

For temporary amendment of (b), see § 501 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 501 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 1072(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1072(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Legislative history of Law 20-61. — See note to § 1-609.03.

Short title. — Section 1071 of D.C. Law 20-61 provided that Subtitle H of Title I of the act may be cited as the "District of Columbia Government Comprehensive Merit Personnel Amendment Act of 2013".

Editor's notes.

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-610.58. Separation pay.

(a) A subordinate agency head may be paid separation pay of up to 12 weeks of his or her basic pay upon separation from the government at the discretion of the Mayor; provided that, the agency head has been a District government employee for at least one year prior to the separation; otherwise the separation pay shall not exceed 4 weeks of the agency head's basic pay.

(b)(1) Notwithstanding subsection (a) of this section and except as provided in paragraph (2) of this subsection, Charles H. Ramsey, Chief of Police, shall be paid separation pay equivalent to up to 6 months of his basic pay upon

involuntary separation from the District government by the Mayor if the involuntary separation is without cause.

(2) If Chief Ramsey is involuntarily separated without cause at any time during the last 6 months of his term, as that term is set forth in § 5-105.01(c), he shall be entitled to separation pay equal to the actual number of days remaining in his term.

(c)(1) Notwithstanding subsection (a) of this section, Cathy L. Lanier, Chief of Police, shall be paid separation pay in a lump sum equivalent to 4 months of her basic pay upon involuntary separation from the District government if the separation is without "material failure," or for a "good reason," as those terms are described in an employment agreement between the District of Columbia and Cathy L. Lanier, Chief of Police, dated May 8, 2012.

(2) If Chief Lanier is involuntarily separated without material failure or for a good reason, Chief Lanier and her eligible dependents shall be entitled to continue to participate in the District of Columbia's health and welfare insurance plans, in which Chief Lanier participated immediately before the date of termination and at the same contribution rates as active employees:

(A) For the 6-month period following the date of termination, or the balance of her term if less than 6 months remain; or

(B) Until she obtains employment with comparable benefits, whichever occurs first.

(Mar. 3, 1979, D.C. Law 2-139, § 1058, as added June 10, 1998, D.C. Law 12-124, § 101(m), 45 DCR 2464; Mar. 7, 2000, D.C. Law 13-52, § 3, 46 DCR 9911; Mar. 2, 2007, D.C. Law 16-199, § 2, 53 DCR 8832; Dec. 21, 2012, D.C. Law 19-205, § 3, 59 DCR 12472.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-205 added (c).

Legislative history of Law 19-205. — Law 19-205, the "Retention Incentives for Chief of Police Cathy L. Lanier Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-778. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 10, 2012, it was assigned Act No. 19-480 and transmitted to Congress for its review. D.C. Law 19-205 became effective on Dec. 21. 2012.

Subchapter XI. Classification; Compensation.

§ 1-611.01. Classification policy; grade levels; publication required; public hearing.

Section references. — This section is referenced in § 1-611.02, § 1-611.11, § 1-1161.01, § 1-1163.02, § 42-3502.03b, and § 42-3502.04a.

Emergency legislation.

For temporary (90 days) response by the government of the District of Columbia's to the federal shutdown, or lapse in appropriations, by designating personnel as essential, authorizing the District to employ personal services, and providing for the compensation of personnel, see §§ 2 to 6 of the Federal Shutdown Response Emergency Act of 2013 (D.C. Act 20-182, October 4, 2013, 60 DCR 14955).

§ 1-611.03. Compensation policy; compensatory time off; overtime pay.

(a) Compensation for all employees in the Career, Educational, Legal, Excepted, and the Management Supervisory Services shall be fixed in accordance with the following policy:

(1) Compensation shall be competitive with that provided to other public sector employees having comparable duties, responsibilities, qualifications, and working conditions by occupational groups. For the purpose of this paragraph, compensation shall be deemed to be competitive if it falls reasonably within the range of compensation prevailing in the Washington, D.C., Standard Metropolitan Statistical Area (SMSA); provided, that compensation levels may be examined for public and/or private employees outside the area and/or for federal government employees when necessary to establish a reasonably representative statistical basis for compensation comparisons, or when conditions in the local labor market require a larger sampling of prevailing compensation levels.

(2) Pay for the various occupations and groups of employees shall be, to the maximum extent practicable, interrelated and equal for substantially equal work in accordance with this principle, dental officers shall be paid on the same schedule as medical officers having comparable qualifications and experiences.

(3) Differences in pay shall be maintained in keeping with differences in level of work and quality of performance.

(4) Repealed.

(5) Repealed.

(6) Repealed.

(7)(A) Any full-time permanent, indefinite, or term District government employee who serves in a reserve component of the United States Armed Forces and who has been or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, shall receive, upon application and approval, an amount that equals the difference in compensation between the employee's District government basic pay reduced by the employee's basic military pay. This amount shall not be considered as basic pay for any purpose and shall be paid for any period following the formal inception of Operation Enduring Freedom in 2001, any period following the beginning of the preparation for Operation Iraqi Freedom in 2002 and 2003, or for any period following the formal inception of Operation Iraqi Freedom in 2003, during which the employee is carried in a non-pay status from the time the employee is called into active duty, until the employee is released from active duty occasioned by any of these military conflicts.

(B) The Mayor shall issue rules within 30 days of March 26, 2008, to implement the provisions of this paragraph.

(b) The pay of an individual receiving an annuity under any District government civilian retirement system selected for employment in the District government on or after January 1, 1980, shall be reduced by the amount of annuity allocable to the period of employment as a reemployed annuitant. No

reduction shall be made to the pay of a reemployed individual for any retirement benefits received by the reemployed individual pursuant to 5 U.S.C. § 8331, §§ 1-626.03 through 1-626.12, § 5-723(e), the Judges' Retirement Fund, established by § 1-714, or the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994.

(c) Repealed.

(d) Notwithstanding any other provisions of law or regulation, effective April 15, 1986, any employee who is covered by the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.)("FLSA"), and is eligible to earn compensatory time may receive compensatory time off at a rate not less than 1 and one-half hours for each hour of employment for which overtime compensation is required under the FLSA, in lieu of paid overtime compensation.

(1) If the work of an employee for which compensatory time off may be provided includes work in a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time for hours worked after April 15, 1986. If the work of an employee does not include work in a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 240 hours of compensatory time for hours worked after April 15, 1986.

(2) Any employee who, after April 15, 1986, has accrued the maximum number of hours of compensatory time off allowed under paragraph (1) of this subsection shall, for additional hours of work, be paid overtime compensation.

(e) Notwithstanding any other provision of District law or regulation, effective on the first day of the first pay period beginning one month after November 25, 1993, entitlement to and computation of overtime for all employees of the District government, except those covered by a collective bargaining agreement providing otherwise, shall be determined in accordance with, and shall not exceed, the overtime provisions of section 7 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 207. No person shall be entitled to overtime under this section unless that person is either entitled to overtime under the Fair Labor Standards Act or is entitled to overtime under the personnel rules of the District of Columbia as they existed at the time of enactment of this section.

(f)(1) Uniformed members of the Metropolitan Police Department at the rank of Inspector and above shall not receive overtime compensation for work performed in excess of a 40-hour administrative workweek, excluding rollcall.

(2)(A) Except as provided in subparagraph (B) of this paragraph, uniformed members of the Fire and Emergency Medical Services Department at the rank of Assistant Fire Chief and above shall not receive overtime compensation for work performed in excess of 40 hours in an administrative workweek and in excess of 48 hours in a workweek for those uniformed members of the Fire and Emergency Medical Services Department at the rank of Assistant Fire Chief and above in the Firefighting Division.

(B) For fiscal years 2011, 2012, 2013, and 2014, uniformed members of the Fire and Emergency Medical Services Department at the rank of Battalion Fire Chief and above shall not receive overtime compensation for work

performed in excess of 40 hours in an administrative workweek and in excess of 48 hours in a workweek for those uniformed members of the Fire and Emergency Medical Services Department at the rank of Deputy Fire Chief and above in the Firefighting Division.

(3) Uniformed members of the Metropolitan Police Department at the rank of Inspector and above and uniformed members of the Fire and Emergency Medical Services Department at the rank of Assistant Fire Chief and above shall not be suspended for disciplinary actions for less than a full pay period.

(4)(A) For fiscal years 2011, 2012, 2013, and 2014, and except as provided in subparagraph (B) of this paragraph, no officer or member of the Fire and Emergency Medical Services Department who is authorized to receive overtime compensation under this subsection may earn overtime in excess of $20,000 in a fiscal year.

(B) This paragraph shall not apply to a member of the Fire and Emergency Medical Services Department who is classified as a Heavy Mobile Equipment Mechanic or a Fire Arson Investigator Armed (Canine Handler).

(C) Notwithstanding any other provision of this paragraph, the exemption to the overtime limitation for the Fire Arson Investigator Armed (Canine Handler) set forth in subparagraph (B) of this paragraph shall apply retroactively to fiscal year 2011.

(Mar. 3, 1979, D.C. Law 2-139, § 1103, 25 DCR 5740; Sept. 16, 1980, D.C. Law 3-101, § 2, 27 DCR 3628; Mar. 4, 1981, D.C. Law 3-130, § 2(b), 28 DCR 277; Mar. 16, 1982, D.C. Law 4-78, § 8(a), 29 DCR 49; Mar. 13, 1985, D.C. Law 5-140, § 2, 31 DCR 5755; Oct. 5, 1985, D.C. Law 6-43, § 2(a), 32 DCR 4484; July 24, 1986, D.C. Law 6-126, § 2, 33 DCR 3211; July 24, 1986, D.C. Law 6-127, § 2, 33 DCR 3213; Sept. 13, 1986, D.C. Law 6-142, § 2, 33 DCR 4369; Mar. 2, 1991, D.C. Law 8-190, § 2(a), 37 DCR 6721; July 13, 1991, D.C. Law 9-12, § 2(a), 38 DCR 3376; Nov. 25, 1993, D.C. Law 10-65, § 201, 40 DCR 7351; July 23, 1994, D.C. Law 10-136, § 5, 41 DCR 3006; Sept. 22, 1994, D.C. Law 10-172, § 2, 41 DCR 5152; May 16, 1995, D.C. Law 10-255,§ 2(a), 41 DCR 5193; June 10, 1998, D.C. Law 12-124, §§ 101(n)(2), 101(n)(3), 45 DCR 2464; Apr. 12, 2000. D.C. Law 13-91, § 103(o), 47 DCR 520; Oct. 3, 2001, D.C. Law 14-28, § 3702, 48 DCR 6981; Oct. 19, 2002, D.C. Law 14-213, § 3(h), (i), 49 DCR 8140; Dec. 7, 2004, D.C. Law 15-207, § 2, 51 DCR 8779; Mar. 26, 2008, D.C. Law 17-135, § 2(a), 55 DCR 1683; Sept. 24, 2010, D.C. Law 18-223, § 3022, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 3012, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3022, 59 DCR 8025; Dec. 24, 2013, D.C. Law 20-61, § 3052, 60 DCR 12472.)

Section references. — This section is referenced in § 1-611.04, § 1-611.05, § 1-611.11, § 1-617.17, and § 1-711.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal years 2011, 2012, and 2013" for "fiscal years 2011 and 2012" in (f)(2)(B) and (f)(4)(A); and added (f)(4)(C).

The 2013 amendment by D.C. Law 20-61 rewrote (f)(2)(B); and substituted "2011, 2012, 2013, and 2014" for "2011, 2012, and 2013" in (f)(4)(A).

Emergency legislation.

For temporary (90 days) bonus and special pay limitation, see § 1002 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) bonus and special pay limitation, see § 1002 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

For temporary (90 days) amendment of this section, see the first § 3062 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 3052 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-61. — See note to § 1-609.03.

Short title.

Section 1001 of D.C. Law 20-61 provided that Subtitle A of Title I of the act may be cited as the "Bonus and Special Pay Limitation Act of 2013".

Section 3051 of D.C. Law 20-61 provided that Subtitle F of Title III of the act may be cited as the "Fire and Emergency Medical Services Overtime Limitation Amendment Act of 2013".

Editor's notes.

Section 1002 of D.C. Law 19-168 provided:

"Bonus and special pay limitations. (a) For fiscal year 2013, no funds shall be used to support the categories of special awards pay or bonus pay; provided, that funds may be used for:

"(1) Retirement awards;

"(2) Hiring bonuses for difficult-to-fill positions;

"(3) Additional income allowances for difficult-to-fill positions;

"(4) Agency awards or bonuses funded by private grants or donations;

"(5) Safe-driving awards;

"(6) Gainsharing incentives in the Department of Public Works;

"(7) Suggestion or invention awards; or

"(8) Any other award or bonus required by an existing contract or collective bargaining agreement that was entered into before the effective date of this subtitle.

"(b) For fiscal year 2013, no special awards pay or bonus pay shall be paid to a subordinate agency head or an assistant or deputy agency head unless required by a contract executed before the effective date of this subtitle.

"(c) Notwithstanding any other provision of law, no restrictions on the use of funds to support the categories of special awards pay (comptroller subcategory 0137) or bonus pay (comptroller subcategory 0138) shall apply in fiscal year 2013 to employees of the District of Columbia Public Schools who are based at a local school or who provide direct services to individual students."

Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Section 1002 of D.C. Law 20-61 provided for bonus and special pay limitations for fiscal year 2014.

CASE NOTES

Stipends.

The $595 annual stipend under District of Columbia statute for detective sergeants was part of plaintiffs' regular pay rate and had to be included in FLSA overtime calculation; District contended that stipend was not part of their basic compensation but rather was additional payment that should not be so included, but FLSA mandated that regular rate include all remuneration for employment paid to, or on behalf of, employee unless it fell under one of eight expressly provided exclusions and District did not reference the exemptions, let alone argue that one of them applied to situation. Figueroa v. District of Columbia, 2012 WL 2367088 (2012).

§ 1-611.08. Compensation — Members of boards and commissions.

(a) Each member of any board or commission who receives compensation or reimbursement of expenses on January 1, 1980, shall receive such rates of compensation or reimbursement of expenses as are provided in existing law, rule, regulation, or order, or in this chapter, except as may be modified from

time to time by rules and regulations published pursuant to subsection (b) of this section.

(b) The Mayor of the District of Columbia is authorized to establish by rule and regulation the rates of compensation or reimbursement of expenses for members of any board or commission, including any board or commission established after January 1, 1980. Any such rules and regulations proposed by the Mayor shall be transmitted to the Council of the District of Columbia for a 30-day (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) review period. Such rules and regulations shall become effective only if the Council of the District of Columbia does not adopt, within 30 days (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) from the date of the Mayor's submission, a resolution disapproving such rules and regulations in whole or in part. Notwithstanding the provisions of § 1-604.05, rules and regulations published under this subsection shall be effective no earlier than 30 days after their publication in the District of Columbia Register.

(c)(1) Notwithstanding subsections (a) and (b) of this section, or any other provision of law, members of boards and commissions shall not be compensated for time expended in the performance of official duties; except that members of the following boards and commissions shall be entitled to compensation as currently authorized by law:

(A) Public Service Commission;

(B) Contract Appeals Board;

(C) Rental Housing Commission;

(D) Board of Parole;

(E) The Chairperson and public and industry members of the Taxicab Commission; and

(F) The District of Columbia Retirement Board.

(2) Beginning April 1, 1995, members of the following boards and commissions shall be entitled to compensation as follows:

(A) Board of Zoning Adjustment members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $12,000 for each board member per year.

(B) Office of Employee Appeals members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $3,000 for each member per year.

(C) Police and Firemen's Retirement and Relief Board members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $8,000 for each board member per year.

(D) Public Employee Relations Board members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $3,000 for each board member per year.

(E) Repealed.

(F) Redevelopment Land Agency board members shall be paid per diem compensation at a rate established by the Mayor, except that such rate may not exceed the daily equivalent of the annual rate of basic pay for level 15 of the

District Schedule for each day (including travel time) during which they are engaged in the actual performance of their duties.

(G) Zoning Commission members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $12,000 for each commission member per year.

(H) Historic Preservation Review Board members shall be entitled to compensation at the hourly rate of $25 per meeting, not to exceed $3,000 for each board member per year.

(I) Alcoholic Beverage Control Board members shall be entitled to compensation at the hourly rate of $40 per meeting, not to exceed $15,000 for each board member per year.

(J) The Chairpersons of the boards and commissions specified in this paragraph who are public members shall be entitled to an additional compensation of 20% above the annual maximum, except that no maximum shall apply to the compensation paid to the chairperson of the Real Property Tax Appeals Commission for the District of Columbia.

(K) Effective October 1, 2002, public and industry members of the District of Columbia Taxicab Commission shall be entitled to compensation of $25 per meeting or work session, not to exceed $1,350 for each public or industry member per year, as provided in § 50-305(c). Total compensation for all Commission members shall not exceed $10,800, for all meetings and work sessions.

(L) Effective October 1, 2012, members of the Board of Elections shall be entitled to compensation at the hourly rate of $40 while actually in the service of the Board, not to exceed the $12,500 per annum for members and $26,500 per annum for the Chairman.

(d) Notwithstanding subsections (a), (b), and (c) of this section, or any other provision of law, members of boards or commissions shall not be entitled to reimbursement for expenses; except that transportation, parking, or mileage expenses incurred in the performance of official duties may be reimbursed, not to exceed $15 per meeting or currently authorized amounts, whichever is less.

(e) The Mayor shall conduct a comprehensive study of the compensation and stipend levels of the District's boards and commissions, recognizing the different characteristics of these entities, and examining the best practices in the compensation and stipend policies of surrounding and comparable jurisdictions. Based on this study, the Mayor shall provide a report to the Council by December 31, 2002, with recommendations for a rational compensation and stipend policy applicable to boards and commissions, including any recommendations for changes in specific compensation and stipend levels that could be addressed in the FY 2004 budget and financial plan.

(Mar. 3, 1979, D.C. Law 2-139, § 1108, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(k), 27 DCR 2632; Sept. 26, 1995, D.C. Law 11-52, § 801(b), 42 DCR 3684; Mar. 20, 1998, D.C. Law 12-60, § 101, 44 DCR 7378; Nov. 29, 1999, 113 Stat. 1515, Pub. L. 106-113, § 119(b); Oct. 20, 1999, D.C. Law 13-38,§ 302, 46 DCR 6373; May 3, 2001, D.C. Law 13-298, § 201, 48 DCR 2959; Oct. 1, 2002, D.C. Law 14-190, §§ 2403, 2502, 2603, 49 DCR 6968; Sept. 30, 2004, D.C. Law

15-187, § 102(b), 51 DCR 6525; Dec. 7, 2004, D.C. Law 15-205, § 1212, 51 DCR 8441; Apr. 13, 2005, D.C. Law 15-354, § 5(b), 52 DCR 2638; Apr. 7, 2006, D.C. Law 16-91, § 120(b), 52 DCR 10637; Sept. 19, 2006, D.C. Law 16-159, § 3, 53 DCR 5385; Mar. 25, 2009, D.C. Law 17-361, § 3, 56 DCR 1204; Apr. 8, 2011, D.C. Law 18-363, § 3(b), 58 DCR 963; Sept. 20, 2012, D.C. Law 19-168, § 1132, 59 DCR 8025.)

Section references. — This section is referenced in § 1-137.02, § 1-321.01, § 1-602.02, § 1-603.01, § 1-606.01, § 1-611.12, § 1-611.52, § 1-612.03, § 1-1001.04, § 1-1162.05, § 2-1404.03, § 3-604, § 3-1204.06, § 3-1442, § 32-1106, § 32-1542.01, § 38-827.02, § 38-1304, § 39-104, § 44-403, § 45-301, § 47-463, § 47-2853.09, § 47-3601, § 50-305, and § 50-503.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (c)(2)(L).

Legislative history of Law 19-168. — See note to § 1-611.03.

§ 1-611.09. Compensation — Mayor and members of Council.

Section references. — This section is referenced in § 1-123, § 1-602.02, § 1-611.53, § 1-636.02, and § 3-1303.

Temporary Amendment of Section.

For temporary (225 days) addition of D.C. Law 2-139, § 1109a, see §§ 3 and 4 of the Chief Financial Officer Compensation Temporary Amendment Act of 2013 (D.C. Law 20-44, October 24, 2013, 60 DCR 14957).

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 3 and 5 of the Chief Financial Officer Compensation Emergency Act of 2013 (D.C. Act 20-140, July 31, 2013, 60 DCR 11792, 20 DCSTAT 1984).

§ 1-611.11. Classification and compensation policies and procedures for educational employees.

(a) The classification of all positions in the Educational Service shall be in accordance with the policies of § 1-611.01.

(a-1) Notwithstanding any other provision of law, rule, or regulation:

(1) Except for the Chancellor and any Excepted Service employees appointed pursuant to § 1-609.03(a)(4), every employee of the District of Columbia Public Schools shall be:

(A) Classified as an Educational Service employee;

(B) Placed under the personnel authority of the Mayor; and

(C) Subject to all rules of the District of Columbia Public Schools;

(2) Repealed.

(3) Except for the State Superintendent of Education and any Excepted Service employees appointed pursuant to § 1-609.03(a)(7), every employee of the Office of the State Superintendent of Education shall be:

(A) Classified as an Educational Service employee; and

(B) Placed under the personnel authority of the Mayor.

(b) In order to carry out the policies of subsection (a) of this section, the District of Columbia Board of Education shall, for educational employees of the District of Columbia Board of Education, and the Board of Trustees of the University of the District of Columbia shall, for educational employees of the University of the District of Columbia, provide for the development of a

classification system covering all positions. The respective Boards shall provide that all positions covered by this classification system are properly evaluated by application of official classification standards, in accordance with accepted classification principles and techniques and in accordance with applicable rules and regulations. Classification systems or proposals developed under the authority of this section shall be published in the District of Columbia Register at least 60 calendar days prior to their proposed effective date. Each Board shall hold a public hearing on all such proposals it publishes in the District of Columbia Register prior to its adoption of a classification system or amendment to such system.

(c) Repealed.

(d) Compensation for all employees in the Educational Service shall be fixed in accordance with the policies of paragraphs (1), (2), (3), (4) [(4) repealed], and (7) of subsection (a) of § 1-611.03.

(e) The new compensation systems authorized by subsection (d) of this section may include, but not be limited to, provisions for basic pay, pay increases based on quality of and length of service, premium pay, allowances, and severance pay.

(f) Each Board shall provide for appropriate consultations with employee organizations in the development of the new compensation systems.

(g)(1) Each Board shall submit to the Mayor a proposed new compensation system developed pursuant to the provisions of subsections (d) and (e) of this section. Any proposed new compensation system submitted to the Mayor by a Board as required by this subsection shall include proposed dates on which the new compensation system shall become effective. Within 20 days of the submission to the Mayor of a new compensation system proposal by a Board, the Mayor shall transmit the proposal to the Council in the form of a proposed resolution. The Mayor shall append to the proposal a statement that includes:

(A) Detailed reasons why the Mayor supports or opposes the proposal; and

(B) Any adjustments that the Mayor would like to have made to the proposal.

(2) Until the new compensation systems are approved, the compensation systems, including the salary and pay schedules in effect on December 31, 1979, shall continue in effect, provided that pay adjustments shall be made in accordance with the policy stated in § 1-611.03.

(h) The Council shall consider the proposed compensation systems in accordance with its procedures.

(i)(1) Each Board shall provide for the periodic review of its basic compensation systems, in order to improve the system and provide continuing conformity with the policy established by subsection (a) of this section.

(2) These reviews of compensation shall include, but need not be limited to, a review of the adequacy of the rates of basic pay.

(3) Each Board shall provide for appropriate consultations with employee organizations of employees under their respective jurisdiction in the periodic reviews of the compensation system.

(4) Beginning with the year commencing January 1, 1982, each Board shall submit to the Council by no later than October 1st of each year all initial

proposed pay changes and adjustments and other proposed changes to the compensation systems if any for approval by resolution under the provisions of this section.

(5) If the Council by resolution approves, without revision, the proposed pay changes, adjustments, or other proposed changes to the compensation system submitted by the Board of Education, such changes shall become effective on the dates specified in the resolution submitted by the Board of Education as provided in paragraph (4) of this subsection. If the Council takes no action on the Board of Education's proposed change or changes within 60 calendar days of the submission thereof, such change or changes shall be deemed to have been approved by the Council on the day next following the expiration of such 60-day period. The 60 calendar days for Council review shall not include days that pass during a recess of the Council.

(6) If the Council desires to revise the proposal from the Board of Education, then, within the 60 calendar days for Council review, the Council may not only disapprove the proposal by resolution according to paragraph (5) of this subsection, but may, also, inform the Board of the Council's suggested revisions to the proposal and, subsequently, the Board may submit a new proposal.

(7) No pay increase for employees of the Board of Education shall vest unless funds for such pay increase are identified in the transmittal from the Board of Education to the Council concerning such increase.

(8) If the Council by resolution approves pay changes, adjustments, and other changes in a compensation system proposed by the Board of Trustees of the University of the District of Columbia, such changes shall become effective on the dates specified in the resolution submitted by the Board of Trustees as provided in paragraph (5) of this subsection. If the Council takes no action on the proposed change submitted by the Board of Trustees of the University of the District of Columbia within 60 calendar days of the submission thereof, such changes shall be deemed to have been approved by the Council on the day next following the expiration of this 60-day period. The 60 calendar days for Council review shall not include days that pass during a recess of the Council.

(9) If the Council disapproves the change or changes proposed by the Board of Trustees of the University of the District of Columbia, pursuant to paragraph (8) of this subsection, the Board may submit a new proposal.

(10) Repealed.

(11) Repealed.

(j) Retroactive pay is payable by reason of an increase in the salary or pay schedules under this section only where:

(1) The individual is in the service of the District of Columbia government on the date of final action by the Council on the increase; or

(2) The individual retired or died during the period beginning on the effective date of the increase and ending on the date of final action by the Council on the increase, and only for the services performed during that period.

(3) Repealed.

(Mar. 3, 1979, D.C. Law 2-139, § 1111, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(l), 27 DCR 2632; Mar. 5, 1981, D.C. Law 3-150, § 3, 27 DCR 4900;

Mar. 16, 1982, D.C. Law 4-78, § 8(b)-(d), 29 DCR 49; Aug. 1, 1985, D.C. Law 6-15, § 7(e), 32 DCR 3570; Feb. 24, 1987, D.C. Law 6-177, § 3(o), 33 DCR 7241; May 10, 1989, D.C. Law 7-231, § 3(1), 36 DCR 492; Mar. 15, 1990, D.C. Law 8-94, § 2(d), 37 DCR 782; July 13, 1991, D.C. Law 9-12, § 2(b), 38 DCR 3376; Mar. 5, 1996, D.C. Law 11-98, § 301(d), 43 DCR 5; Aug. 1, 1996, D.C. Law 11-152, § 302(n), 43 DCR 2978; June 10, 1998, D.C. Law 12-124, § 101(n)(6), 45 DCR 2464; Mar. 20, 2008, D.C. Law 17-122, § 2(c), 55 DCR 1506; Mar. 26, 2008, D.C. Law 17-135, § 2(b), 55 DCR 1683; Aug. 16, 2008, D.C. Law 17-219, §§ 4004(b), 4019(b), 55 DCR 7598; Sept. 26, 2012, D.C. Law 19-171, § 9(d), 59 DCR 6190.)

Section references. — This section is referenced in § 1-602.02, § 1-603.01, § 1-604.04, § 1-611.01, § 38-2021.13, and § 38-2023.16.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Superintendent of Education" for "Superintendent for Education" twice in the introductory language of (a-1)(3).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter XII. Hours of Work; Legal Holidays; Leave.

§ 1-612.01. Hours of work.

Section references. — This section is referenced in § 1-623.47 and § 38-2021.08.

Emergency legislation.

For temporary (90 day) addition of section, see § 5 of Fiscal Year 2012 Second Revised Budget Request Emergency Adjustment Act of 2012 (D.C. Act 19-382, June 20, 2012, 59 DCR 7760).

For temporary (90 day) addition of section, see § 5 of Fiscal Year 2012 Second Revised Budget Request Congressional Review Emergency Adjustment Act of 2012 (D.C. Act 19-406, July 20, 2012, 59 DCR 9124).

§ 1-612.03. Leave.

(a) All employees shall be entitled to earn annual and sick leave as provided herein, except:

(1) Educational employees under the Board of Education or Board of Trustees of the University of the District of Columbia. The leave system for such employees shall be established by rules and regulations promulgated by the respective Boards;

(2) An intermittent employee who does not have a regularly scheduled tour of duty;

(3) Elected officials;

(4) Members of boards and commissions whose pay is fixed under § 1-611.08;

(5) A temporary employee appointed for less than 90 days;

(6) Employees first hired after September 30, 1987; or

(7) Employees covered under subchapter X-A of this chapter.

(b) The days of leave are days on which an employee would otherwise work and receive pay and are exclusive of holidays and nonworkdays. The annual

leave provided by this section, including annual leave that will accrue to an employee during the year, may be granted at any time during the year by the appropriate personnel authority.

(c) An employee who accepts a position excepted from these provisions under subsection (a) of this section, without a break in service, may elect either a lump-sum payment for any unused annual leave or have such leave retained for recrediting purposes if he or she returns to a position covered by these provisions.

(d) An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments, or to have the excess leave carried forward as a charge against later accruing annual leave, unless repayment is waived as provided under subchapter XXIX of this chapter.

(e)(1) An employee is entitled to annual leave with pay which accrues as follows:

(A) One-half day for each full biweekly pay period for an employee with less than 3 years of federal or District government service;

(B) Three-fourths day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days, for an employee with 3 but less than 15 years of federal or District government service; and

(C) One day for each full biweekly pay period for an employee with 15 or more years of federal or District government service.

(2) For the purposes of this subsection, an employee is deemed employed for a full biweekly pay period if he or she is employed during the days within that period, exclusive of legal holidays and nonworkdays which fall within his or her basic administrative workweek. A part-time employee serving on a prearranged scheduled tour of duty is entitled to earn leave as provided above on a pro rata basis. Leave accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid based on biweekly pay periods. A change in the rate of accrual of annual leave by an employee under this subsection takes effect at the beginning of the pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

(f) In determining years of service for leave accrual purposes, an employee is entitled to credit for all service creditable under § 8332 of Title 5 of the United States Code for annuity purposes under Civil Service retirement. An employee who is a military retiree is entitled to credit for active military service only if his or her retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in line of duty during a period of war as defined by §§ 101 and 301 of Title 38 of the United States Code [revised; see now 38 U.S.C. § 1101]. The determination of years of service may be made on the basis of an affidavit of the employee.

(g) An employee whose current employment is limited to less than 90 days is entitled to annual leave only after being currently employed for a continuous

period of 90 days under successive temporary appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him or her since the date of his or her initial temporary appointment.

(h) Annual leave which is not used by an employee accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the 1st full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a calendar year.

(1) Annual leave in excess of 30 days which was accumulated under an earlier statute remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the 1st full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year until the employee's accumulated leave does not exceed 30 days.

(2) Annual leave which is lost due to administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960, exigencies of the public business when the annual leave was scheduled in advance, or sickness of the employee when the annual leave was scheduled in advance, shall be restored to the employee:

(A) Restored annual leave which is in excess of 30 days shall be credited to a separate leave account for the employee and shall be available for use by the employee for a period of 2 years. Restored leave shall be included in a lump-sum payment if unused and still available upon the separation of the employee;

(B) Annual leave otherwise accruable after June 30, 1960, which is lost because of administrative error and is not recredited because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date on which the error is discovered.

(i) When an individual who received a lump-sum payment for leave is reemployed before the end of the period covered by the lump-sum payment, except in a position excepted under subsection (a) of this section, he or she shall refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period.

(j) An employee is entitled to sick leave with pay which accrues on the basis of one-half day for each full biweekly pay period: Except, that sick leave with pay accrues to a member of the Firefighting Division of the Fire Department on the basis of two-fifths of a day for each full biweekly pay period. Sick leave may not be charged to the account of a uniformed member of the Metropolitan Police Department or the Fire Department for an absence due to injury or illness resulting from the performance of duty.

(k) The annual and sick leave to the credit of a federal employee who transfers to the District government without a break in service will be transferred to the credit of the employee under the District government leave system. The annual and sick leave to the credit of an employee who transfers from a position under a different leave system(s) without a break in service

shall be transferred on an adjusted basis under rules and regulations prescribed by the Mayor.

(l) An employee is entitled to leave, without loss of pay, leave, or credit for time of service, during a period of absence in which he or she is summoned, in connection with a judicial proceeding, by a court or other authority responsible for the conduct of that proceeding to serve as a juror or as a witness on behalf of any party in connection with judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party.

(m) An employee is entitled to leave without loss in pay, leave, service, or performance rating for active duty, inactive-duty training (as defined in 37 U.S.C. § 101), or to engage in field coast defense training under 32 U.S.C. §§ 502 through 505 as a reserve member of the armed forces or member of the National Guard. Leave under this subsection shall not exceed 15 calendar days per fiscal year and, to the extent that it is not used in a fiscal year, shall accumulate for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. In the case of part-time employment, the rate at which leave accrues under this subsection shall be a percentage of the rate prescribed above which is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee during that fiscal year. The minimum charge for leave under this subsection is one hour, and additional charges are in multiples thereof.

(m-1) An employee who is a member of a reserve component of the armed forces, as described in 10 U.S.C. § 10101, or the National Guard, as described in 32 U.S.C. § 101 and who performs, for the purpose of providing military aid to enforce the law or for the purpose of providing assistance to civil authorities in the protection or saving of life, property, or the prevention of injury, under the following:

(1) Federal service under 10 U.S.C. §§ 331, 332, 333, or 12406 or other provision of law, as applicable, or

(2) Full-time military service for his or her state, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States is entitled, during and because of such service, to leave without loss of, or reduction in, pay, leave to which he or her would be otherwise entitled, and credit for service or a performance rating. Leave granted by this paragraph shall not exceed 22 workdays in a calendar year.

(m-2) Upon the request of an employee, the period for which an employee is absent to perform service described by this subsection may be charged to the employee's accrued annual leave or to compensatory time available to the employee instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave. An employee who is a member of the National Guard of the District of Columbia is entitled to leave without limitation and without loss in pay or time for each day of a parade or encampment ordered or authorized under Title 49 of the District of Columbia Official Code. This provision covers each day of service in the National Guard, or a portion thereof, that an employee is ordered to perform by the Commanding General.

(m-3) An amount (other than travel, transportation, or per diem allowance) received by an employee for military service as a member of the reserve or

National Guard for a period for which he or she is entitled to military leave shall be credited against the pay payable to the employee for the same period.

(n) An employee is entitled to not more than 3 days of leave without loss of or reduction in pay, leave or service to make arrangements for or attend the funeral or memorial service for an immediate relative.

(o) The Mayor is authorized to issue necessary rules and regulations to implement the provisions of this section.

(p) In units where exclusive recognition has been granted, the Mayor or an appropriate personnel authority may enter into agreements with the exclusive bargaining agent to continue employee coverage under the provisions of this chapter while an employee(s) serves in a full-time or regular part-time capacity with a labor organization at no loss in benefits to the individual employee(s): Provided, however, that the cost to the District shall be paid by the labor organization while the employee(s) is so engaged, and: Provided, further, that this provision shall not limit the negotiability or use of official time by unit employees for the purposes of investigation, processing, and resolving grievances, complaints or any and all other similar disputes.

(q) After advising his or her supervisor, an employee is entitled to utilize up to 10 hours of administrative leave for the purpose of responding to adverse actions initiated under the provisions of subchapter XVI-A of this chapter.

(r) An employee who is a member of the District of Columbia Retirement Board shall be entitled to administrative leave, in accordance with § 1-711(c), while engaged in the actual performance of duties vested in the Board during the employee's regularly scheduled working hours.

(Mar. 3, 1979, D.C. Law 2-139, § 1203, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(o), 27 DCR 2632; Feb. 24, 1987, D.C. Law 6-177, § 3(r), 33 DCR 7241; Mar. 24, 1990, D.C. Law 8-97, § 3(c), 37 DCR 1046; Aug. 1, 1996, D.C. Law 11-152, § 302(q), 43 DCR 2978; June 10, 1998, D.C. Law 12-124, § 101(o)(2), 45 DCR 2464; Apr. 12, 2000, D.C. Law 13-91, § 103(q), 47 DCR 520; Oct. 19, 2002, D.C. Law 14-213, § 3(k), 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 2(b), 51 DCR 881; Mar. 14, 2012, D.C. Law 19-115, § 2(j), 59 DCR 461; Sept. 20, 2012, D.C. Law 19-168, § 1092(b), 59 DCR 8025; Feb. 22, 2014, D.C. Law 20-83, § 2(a), 61 DCR 176.)

Section references. — This section is referenced in § 1-610.74, § 1-612.03a, § 32-705, and § 38-2021.08.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "30 days" for "20 days" throughout (h).

The 2014 amendment by D.C. Law 20-83 deleted "who died as a result of wound, disease or injury incurred while serving as a member of the armed forces in a combat zone" from the end of (n).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1092(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 20-83. — Law 20-83, the "Funeral and Memorial Service Leave Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-235. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December

27, 2013, it was assigned Act No. 20-253 and transmitted to Congress for its review. D.C. Law 20-83 became effective on February 22, 2014.

CASE NOTES

ANALYSIS

Judicial review.
Performance-of-duty injury.

Judicial review.

Police lieutenant's claim for non-chargeable sick leave under the District of Columbia Comprehensive Merit and Personnel Act fell within the selection-or-tenure exception to contested cases under the District of Columbia Administrative Procedure Act, the superior court properly reviewed the District of Columbia Metropolitan Police Department's denial of the lieutenant's request as an exercise of its general jurisdiction, and the appellate court had jurisdiction to review the superior court's resolution of her claim. Nunnally v. D.C. Metro. Police Dep't, 80 A.3d 1004, 2013 D.C. App. LEXIS 794 (2013).

Performance-of-duty injury.

Police lieutenant's alleged injury was incurred in the performance of duty (POD) that qualified for non-chargeable leave where she sustained a psychological injury due to retaliatory activities by coworkers after she reported being sexually harassed by a supervisor as D.C. Mun. Regs. tit. 7, § 2499 (2005) had expired and its definition of POD had not been adopted in a permanent regulation, and the District of Columbia Metropolitan Police Department's (MPD) General Order PER 100.11 § III supported the holding that a POD injury was one that arose in the course of a member performing his/her duties as a police officer and that an on-duty POD injury was sustained when a member was legally on duty and engaged in work for the MPD. Nunnally v. D.C. Metro. Police Dep't, 80 A.3d 1004, 2013 D.C. App. LEXIS 794 (2013).

Subchapter XII-A. Voluntary Leave Transfer Program.

§ 1-612.31. Definitions.

For purposes of this subchapter, the term:

(1) "Agency" shall have the meaning provided in § 1-603.01(1).

(2) "Child" means any person:

(A) Under 21 years of age;

(B) Twenty-one years of age or older and is substantially dependent upon the recipient employee by reason of physical or mental disability; or

(C) Under 23 years of age and is a full-time student.

(3) "Domestic partner" shall have the meaning provided in § 32-701.

(4) "Employee" shall have the meaning provided in § 1-603.01(7), except that it shall mean an employee who is eligible to accrue annual or universal leave.

(5) "Head" shall have the meaning provided in § 1-603.01.

(6) "Immediate relative" means:

(A) An individual who is related to the recipient employee by blood, marriage, adoption, or domestic partnership as father, mother, child, husband, wife, sister, brother, aunt, uncle, grandparent, grandchild, or similar familial relationship;

(B) An individual for whom the recipient employee is the legal guardian; or

(C) A fiancé, fiancée, or domestic partner.

(7) "Independent agency" shall have the meaning provided in § 1-603.01(13).

(8) "Intimidate, threaten, or coerce" includes promising to confer or

conferring any benefit such as appointment, promotion, or compensation, or effecting, or threatening to effect, any reprisal such as deprivation of appointment, promotion, or compensation.

(9) "Leave contributor" means an employee who contributes annual or universal leave to be transferred to a designated recipient employee.

(10) "Personal care" means custodial or primary assistance that helps an individual with activities of daily living, including bathing, eating, dressing, and continence. The term "personal care" shall include the recent adoption of a child and the care of a newborn child.

(11) "Prolonged absence" means an employee's absence from duty for at least 10 consecutive workdays that will result in a substantial loss of income to the employee because of the unavailability of paid leave.

(12) "Recipient employee" means an individual employed by the District government for a minimum of one year without a break in service who is designated to receive annual or universal leave transferred from a leave contributor.

(13) "Serious health condition" means pregnancy or a physical or mental illness, injury, or impairment that involves a hospital, hospice, or residential health care facility or continuing treatment at home by a competent health care provider or other individual.

(Mar. 3, 1979, D.C. Law 2-139, § 1231, as added Feb. 6, 2004, D.C. Law 15-68, § 2, 50 DCR 9819; Apr. 13, 2005, D.C. Law 15-354, § 5(c), 52 DCR 2638; Apr. 7, 2006, D.C. Law 16-91, § 118(b), 52 DCR 10637; Feb. 22, 2014, D.C. Law 20-83, § 2(b), 61 DCR 176.)

Effect of amendments.

The 2014 amendment by D.C. Law 20-83 rewrote (6).

Legislative history of Law 20-83. — Law 20-83, the "Funeral and Memorial Service Leave Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-235. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-253 and transmitted to Congress for its review. D.C. Law 20-83 became effective on February 22, 2014.

Subchapter XIII. Employee Development.

§ 1-613.01. Programs for employee development.

(a) The Mayor and the District of Columbia Board of Education shall each install and maintain programs for the training and development of their respective employees through planned courses, systems, or other instruction or education in fields which are or will be related to the performance of official duties for the District, in order to increase their knowledge, proficiency, ability, skill and qualifications in the performance of these duties. This system of training shall be created to ensure that the principles of efficiency, economy and equitable treatment for all employees is carried out for the successful operation of the District government.

(a-1)(1) The Mayor shall undertake a comprehensive analysis of all training and development programs available to District employees and shall establish a comprehensive plan ("Plan") to expand training opportunities for all District

employees. The plan shall include a review of federal training programs, courses, and professional certifications and a recommendation of whether to centralize administration and coordination of training functions within the Department of Human Resources.

(2) The Mayor shall provide the Plan required by this subsection to the Council no later than December 31, 2012.

(b) When educational facilities under the control and direction of the District government are not the most economical available to carry out the provisions of this section, the Mayor and the District of Columbia Board of Education may make arrangements and agreements with colleges, universities, educational institutions, appropriate institutions or corporations. The appropriate personnel authority shall have the authority to enter into these arrangements and agreements for employee development. The Mayor and the District of Columbia Board of Education shall issue rules and regulations concerning what items must be included in agreements for employee development activities relying on non-District facilities.

(c)(1) An employee shall not suffer a loss in pay, tenure, or other rights and benefits by reason of participation in any training or career development program when such participation has been approved or authorized by the District government.

(2) The District may: (A) Pay all or a part of the pay of an employee selected and assigned for training under this section (except overtime, holiday, night, or Sunday premium pay); and (B) pay all or a part of the necessary expenses of the training, including the employee's costs of travel, subsistence, transportation, tuition, fees, books, and related materials; and membership fees to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent for the training. The prohibition in this subsection on payment of premium pay may be waived when the Mayor determines that payment of premium pay would be in the interests of equity and good conscience or in the public interest.

(d)(1) An employee selected for training under this section in a university, college, or other educational institution not controlled by the District shall agree in writing with the District that he or she will:

(A) Continue in the service of the District after the end of the training period for a period of time at least equal to the length of the training period, unless he or she is involuntarily separated from that service; and

(B) Pay to the District the amount of expenses incurred by it in connection with the training, other than his or her pay, if he or she voluntarily leaves that service before the end of the period for which he or she had agreed to serve.

(2) If an employee fails to fulfill the agreement under this subsection to pay the expenses of the training, a sum equal to those expenses is recoverable by the District from the employee, or his or her estate, by setoff against pay, amount of retirement credit, or other amount due the employee from the District.

(3) The right of recovery under paragraph (2) of this subsection may be waived, in whole or in part, by the Mayor and the District of Columbia Board

of Education if recovery would be against equity and good conscience, or against the public interest.

(4) The Mayor and the District of Columbia Board of Education may exempt from the requirement for entering into a written agreement under this subsection the following:

(A) An employee selected for training that does not exceed 80 hours within a single program;

(B) An employee selected for training which is given through a correspondence course; and

(C) An employee selected for training in a manufacturer's training facility, if that training is the direct result of the lease or purchase of that manufacturer's product by the District government.

(e) The Mayor and the District of Columbia Board of Education shall issue rules and regulations concerning the implementation of this subchapter, consistent with equal employment opportunities and standards.

(f) The head of each District agency shall prepare an annual employee development plan which identifies subject matter areas where training is needed, the types of programs and courses which could be used to meet those identified training needs and the types of training activities which will be carried out in the coming year.

(1) The annual employee development plan should also evaluate the impact and success of prior training and employee development activities. Cost figures should include employee pay and benefit expenses while engaged in training on official time, tuition expenses and other fees, travel costs, and other appropriate items.

(2) The Council may review and inspect all plans developed in accordance with this subsection.

(g) Programs developed under the authority of this subchapter are appropriate matters for collective bargaining with labor organizations.

(h) The Mayor shall maintain a record in each employee's personnel file of the training and development programs in which the employee has participated. The Mayor may dictate the content of the record; provided, that it includes:

(1) The name of each program;

(2) The length of each program;

(3) Any certification or endorsement associated with each program; and

(4) The cost of each program.

(Mar. 3, 1979, D.C. Law 2-139, § 1301, 25 DCR 5740; Sept. 20, 2012, D.C. Law 19-168, § 1142, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added (a-1) and (h).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter XV-A. Whistleblower Protection.

§ 1-615.51. Findings and declaration of purpose.

Section references. — This section is referenced in § 2-534.

CASE NOTES

Applied in Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

The Whistleblower Protection Act Of 1989: Foundation For The Modern Law Of Employment Dissent, 51 Ad. L. Rev. 531.

§ 1-615.52. Definitions.

Section references. — This section is referenced in § 1-615.58.

CASE NOTES

ANALYSIS

Causation.
Employee.
Protected disclosure.
Protected disclosure, reasonable belief.
Wrongful termination.

Causation.

Appellant former employee's District of Columbia Whistleblower Protection Act, D.C. Code §§ 1-615.52(a)(6), 1-615.53 (2001), claim against defendant former employer District of Columbia failed because the approximate 8-month gap between the protected activity and the alleged retaliation, alone, was insufficient to show causation. Payne v. D.C. Gov't, 722 F.3d 345, 2013 U.S. App. LEXIS 11478 (D.C. Cir. 2013).

Employee.

Pursuant to D.C. Code § 1-615.54(a), the District of Columbia Fraternal Order of Police, not being an "employee" under D.C. Code § 1-615.52(a)(3), was not entitled to bring a cause of action under the District of Columbia Whistleblower Protection Act, D.C. Code §§ 1-615.51 to 1-615.59. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

Protected disclosure.

Police officer's referral of a barricade situation to a union safety committee was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because a disclosure to a union official was not a protected disclosure and the safety committee was not an individual employed by the District of Columbia. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's testimony before an arbitrator was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because, although the officer's testimony offered new legal analysis of facts well-established in a public debate, the officer did not offer any new information evidencing a violation of local law. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's email to his supervisors regarding their handling of a barricade situation was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because the officer did not disclose more than a minimal violation of local law. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's statements to an internal affairs investigator did not constitute a protected disclosure under D.C. Code § 1-615.52(a)(6) because the officer did not disclose any information regarding safety concerns that the investigator was not already aware of before his interviews with the officer. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Protected disclosure, reasonable belief.

District of Columbia Public Schools (DCPS) Division of Transportation (DOT) employees

satisfied protected disclosure element of prima facie case under District of Columbia Whistleblower Protection Act (DCWPA) through oral and written statements regarding their supervisor, although their statements to Transportation Administrator about their supervisor's discriminatory treatment of Haitians and kickback scheme did not warrant WPA protection since he already was aware of those fraudulent activities; no pleading suggested that Mayor's office or DOT Assistant Manager knew of scheme before employees disclosed it to them, and Transportation Administrator allegedly did not know previously that their supervisor accepted bribes in exchange for paychecks and allowed her boyfriend to use DOT buses for personal purposes, employees did not allege that employer retaliated against them after they relayed already public complaints about perceived abuse, and employees pled reasonable belief that supervisor grossly mismanaged and abused her authority and violated employment discrimination laws. Saint-Jean v. District of Columbia, 846 F.Supp.2d 247, 2012 U.S. Dist. LEXIS 30445 (2012).

In an action pursuant to the District of Columbia Whistleblower Protection Act, D.C. Code § 1-615.53(a), there was a legally sufficient basis for the jury to find that plaintiff made a protected disclosure, as defined by D.C. Code § 1-615.52(a)(6)(A)-(E), because evidence showed that implementation of defendant's software was months behind schedule despite significant financial expenditures, and plaintiff testified that the software could not collect meaningful assessment data or implement needed goals. Williams v. Johnson, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90829 (D.D.C. July 2, 2012).

Wrongful termination.

Police officers failed to establish a valid wrongful termination claim under the District of Columbia Whistle-blower Protection Act, D.C. Code §§ 1-615.51 to 1-615.59, because they did not show a protected disclosure, under D.C. Code § 1-615.52(a)(6), or a prohibited personnel action, under D.C. Code § 1-615.52(a)(5), when (1) although the police officers sought to secure off-duty employment as security guards at a newly opened mall, the District of Columbia's Metropolitan Police Department (MPD) contracted directly with a mall to provide police officers to staff a security detail at the mall in return for a monthly permit fee; (2) the police officers complained to the chief of police and the mayor that the MPD had acted illegally in obtaining the contract for itself and thereby depriving them of the mall security employment; (3) a local television station broadcast an investigative report about what happened after receiving a letter from the police union's attorney; and (4) following an investigation, one officer was terminated from the officer's employment. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

§ 1-615.53. Prohibitions.

Section references. — This section is referenced in § 1-615.54 and § 1-615.55.

CASE NOTES

Analysis

Abandoned claims.
Causation.
Compliance.
Protected disclosures.
Retaliation.

Abandoned claims.

District of Columbia employees' claim for defamation by conduct was foreclosed by District of Columbia Comprehensive Merit Personnel Act (CMPA); one employee neither pled nor argued she exhausted her administrative remedies under either of CMPA's two approved methods, and while two other employees triggered collective bargaining agreement (CBA) method of CMPA exhaustion by timely filing grievance in writing in accordance with provision of negotiated grievance procedure, after their Stage 2 grievance hearings were cancelled they did not proceed to final three steps of grievance procedure which culminate in arbitration, nor did they plead that they appealed any arbitration decision to Public Employee Relations Board. Saint-Jean v. District of Columbia, 846 F.Supp.2d 247, 2012 U.S. Dist. LEXIS 30445 (2012).

Causation.

Appellant former employee's District of Columbia Whistleblower Protection Act, D.C. Code §§ 1-615.52(a)(6), 1-615.53 (2001), claim against defendant former employer District of Columbia failed because the approximate 8-month gap between the protected activity and the alleged retaliation, alone, was insufficient to show causation. Payne v. D.C. Gov't, 722 F.3d 345, 2013 U.S. App. LEXIS 11478 (D.C. Cir. 2013).

Compliance.

Police officers failed to establish a valid claim

under the District of Columbia Whistle-blower Protection Act, D.C. Code §§ 1-615.51 to 1-615.59, because they did not show a protected disclosure, under D.C. Code § 1-615.52(a)(6), or a prohibited personnel action, under D.C. Code § 1-615.52(a)(5), when (1) although the police officers sought to secure off-duty employment as security guards at a newly opened mall, the District of Columbia's Metropolitan Police Department (MPD) contracted directly with a mall to provide police officers to staff a security detail at the mall in return for a monthly permit fee; (2) the police officers complained to the chief of police and the mayor that the MPD had acted illegally in obtaining the contract for itself and thereby depriving them of the mall security employment; (3) a local television station broadcast an investigative report about what happened after receiving a letter from the police union's attorney; and (4) following an investigation, one officer was terminated from the officer's employment. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

Protected disclosures.

District of Columbia Public Schools (DCPS) Division of Transportation (DOT) employees satisfied protected disclosure element of prima facie case under District of Columbia Whistleblower Protection Act (DCWPA) through oral and written statements regarding their supervisor, although their statements to Transportation Administrator about their supervisor's discriminatory treatment of Haitians and kickback scheme did not warrant WPA protection since he already was aware of those fraudulent activities; no pleading suggested that Mayor's office or DOT Assistant Manager knew of scheme before employees disclosed it to them, and Transportation Administrator allegedly did not know previously that their supervisor accepted bribes in exchange for paychecks and allowed her boyfriend to use DOT buses for personal purposes, employees did not allege that employer retaliated against them after they relayed already public complaints about perceived abuse, and employees pled reasonable belief that supervisor grossly mismanaged and abused her authority and violated employment discrimination laws. Saint-Jean v. District of Columbia, 846 F.Supp.2d 247, 2012 U.S. Dist. LEXIS 30445 (2012).

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Police officer's referral of a barricade situation to a union safety committee was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because a disclosure to a union official was not a protected disclosure and the safety committee was not an individual employed by the District of Columbia. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's testimony before an arbitrator was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because, although the officer's testimony offered new legal analysis of facts well-established in a public debate, the officer did not offer any new information evidencing a violation of local law. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's email to his supervisors regarding their handling of a barricade situation was not a protected disclosure under D.C. Code § 1-615.52(a)(6) because the officer did not disclose more than a minimal violation of local law. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Police officer's statements to an internal affairs investigator did not constitute a protected disclosure under D.C. Code § 1-615.52(a)(6) because the officer did not disclose any information regarding safety concerns that the investigator was not already aware of before his interviews with the officer. Baumann v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 43317 (D.D.C. Mar. 27, 2013).

Retaliation.

Other than receiving an email from an employee, a board chairman was not alleged to have taken any action, and the email did not state that she was being retaliated against for her EEO complaint; therefore, there was no basis to find that the chairman aided or abetted any retaliation in violation of § 2-1402.62 or § 1-615.53. Martin v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 131611 (D.D.C. Sept. 16, 2013).

§ 1-615.54. Enforcement.

Section references. — This section is referenced in § 1-615.56.

CASE NOTES

ANALYSIS

Construction.
Damages.
Evidence.
Parties.
Presumptions and burden of proof.

Construction.

Former probationary teacher, who alleged that he was terminated in retaliation for challenging and complaining about a school policy to alter student test scores, was unable to assert a wrongful termination claim based on a public policy exception to the discharge of an at-will employee because the D.C. Whistleblower Protection Act provided the statutory basis to enforce this particular public policy. Mpoy v. Fenty, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90960 (D.D.C. July 2, 2012).

Pursuant to D.C. Code § 1-615.54(a), the District of Columbia Fraternal Order of Police, not being an "employee" under D.C. Code § 1-615.52(a)(3), was not entitled to bring a cause of action under the District of Columbia Whistleblower Protection Act, D.C. Code §§ 1-615.51 to 1-615.59. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

Damages.

In this action under Title VII of the Civil Rights Act of 1964, D.C. Human Rights Act and the D.C. Whistleblowers Protection Act, a $3.5 million verdict for the damages alleged by the employee was so great as to "shock the conscience" and so inordinately large as to obviously exceed the maximum limit of a reasonable range within which the jury may properly operate; $350,000 was the highest amount a jury tolerably could have awarded. Jean-Baptiste v. District of Columbia, 931 F. Supp. 2d 1, 2013 U.S. Dist. LEXIS 36579 (D.D.C. Mar. 18, 2013), appeal dismissed by 2013 U.S. App. LEXIS 11452 (D.C. Cir. May 23, 2013), appeal dismissed by 2014 U.S. App. LEXIS 4308 (D.C. Cir. Jan. 21, 2014).

Evidence.

Police officers failed to establish a valid claim under the District of Columbia Whistle-blower Protection Act, D.C. Code §§ 1-615.51 to 1-615.59, because they did not show a protected disclosure, under D.C. Code § 1-615.52(a)(6), or a prohibited personnel action, under D.C. Code § 1-615.52(a)(5), when (1) although the police officers sought to secure off-duty employment as security guards at a newly opened mall, the District of Columbia's Metropolitan Police Department (MPD) contracted directly with a mall to provide police officers to staff a security detail at the mall in return for a monthly permit fee; (2) the police officers complained to the chief of police and the mayor that the MPD had acted illegally in obtaining the contract for itself and thereby depriving them of the mall security employment; (3) a local television station broadcast an investigative report about what happened after receiving a letter from the police union's attorney; and (4) following an investigation, one officer was terminated from the officer's employment. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

Parties.

Section 1-615.54(a) (2001) did not provide appellant former employee with a cause of action against defendant supervisors, and, an amended version, § 1-615.54(a)(1) (2010) was not in effect when the employee's suit was filed, and was in any event not retroactive because there was no express legislative language or other clear implication that retroactivity was intended, and nothing about the amendment suggested other than the normal prospective application presumed for legislative acts; further, explicit placement of the burden on "the employing District agency" evidences that the 2001 Act did not contemplate that individual supervisors could be named as defendants. Payne v. D.C. Gov't, 722 F.3d 345, 2013 U.S. App. LEXIS 11478 (D.C. Cir. 2013).

Presumptions and burden of proof.

Court doubted but nonetheless assumed that plaintiff made a prima facie case that his termination was in retaliation for protected disclosures; yet, he had not shown that his termination would not have occurred "for an unrelated, legitimate reason." The record showed that the Department of Corrections terminated him because Internal Affairs found that he struck a restrained inmate, and on this point, he offered no evidence to the contrary. McCormick v. District of Columbia, 899 F. Supp. 2d 59, 2012 U.S. Dist. LEXIS 151512 (D.D.C. Oct. 22, 2012).

§ 1-615.55. Disciplinary actions; fine.

CASE NOTES

Parties.

Trial court did not err in dismissing a police commander from a lawsuit because the police officers who brought the lawsuit named the commander as a defendant only in the commander's official capacity and the lawsuit

against the commander was in reality a lawsuit against the District of Columbia, which also was named as a party-defendant. Thus, it was superfluous to name the commander in the lawsuit. Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

§ 1-615.59. Applicability.

CASE NOTES

Applied in Freeman v. D.C., 60 A.3d 1131, 2012 D.C. App. LEXIS 520 (2012).

Subchapter XVI-A. General Discipline and Grievances.

§ 1-616.52. Disciplinary grievances and appeals.

Section references. — This section is referenced in § 1-606.07, § 1-616.53, and § 1-616.54.

CASE NOTES

Jurisdiction.

Superior Court of the District of Columbia had jurisdiction to grant a stay of arbitration because the District of Columbia Comprehensive Merit Personnel Act, D.C. Code §§ 1-601.01 to 1-636.03, did not preempt the District of Columbia Revised Uniform Arbitration Act, D.C. Code §§ 16-4401 to 16-4432, as to this type of pre-arbitration relief. Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-616.53. Grievances.

Section references. — This section is referenced in § 1-603.01 and § 1-616.52.

CASE NOTES

Due process.

Retired police officers who were first employed by District of Columbia before 1987 and were rehired by District after 2004 were not deprived of procedural due process when their paychecks were reduced by offset for pension payments, as they were provided notice of offset months before it became effective and opportunity to challenge impending offset but neglected to avail themselves of dispute resolution procedures under Comprehensive Merit Protection Act (CMPA). Cannon v. District of Columbia, 2012 WL 2673097 (2012).

Subchapter XVII. Labor-Management Relations.

§ 1-617.01. Policy.

Section references. — This section is referenced in § 1-615.52.

LAW REVIEWS AND JOURNAL COMMENTARIES

Clipping The Political Wings Of Labor Unions: An Examination Of Existing Law And Proposals For Change, 5 Harv. J.L. & Pub. Pol'y 1.

§ 1-617.02. Labor-management relations program established; contents; impasse resolution.

Section references. — This section is referenced in § 1-605.02.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-617.04. Unfair labor practices.

CASE NOTES

Jurisdiction.

District of Columbia Public Employee Relations Board has exclusive jurisdiction over claims of retired District of Columbia employees alleging an unfair labor practice under D.C. Code § 1-617.04 that arises out of the claimants' employment relationship with the District of Columbia. Battle v. District of Columbia, 80 A.3d 1036, 2013 D.C. App. LEXIS 791 (2013).

Action filed against the District of Columbia by former public-school teachers was properly dismissed for lack of subject-matter jurisdiction because the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., gave the District of Columbia Public Employee Relations Board exclusive primary jurisdiction over unfair-labor-practice claims, regardless of whether the alleged violation occurred while the teacher was a District employee. Battle v. District of Columbia, 80 A.3d 1036, 2013 D.C. App. LEXIS 791 (2013).

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-617.07. Union security; dues deduction.

LAW REVIEWS AND JOURNAL COMMENTARIES

Clipping The Political Wings Of Labor Unions: An Examination Of Existing Law And Proposals For Change, 5 Harv. J.L. & Pub. Pol'y 1.

§ 1-617.13. Remedies; enforcement; judicial review; payment of costs.

Section references. — This section is referenced in § 1-605.02.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-617.15. Collective bargaining agreements.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

§ 1-617.18. Evaluation process for public school employees.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).

Subchapter XVIII. Employee Conduct.

§ 1-618.01. Standards of conduct.

(a) Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(a-1) As a matter of public policy, each employee, member of a board or commission, or a public official of the District is encouraged to report, pursuant to subchapter XV-A of this chapter, any violation of a law or rule, or the misuse of government resources, as soon as the employee, member of a board or commission, or a public official becomes aware of the violation or misuse of resources.

(a-2)(1) Upon commencement of employment, any person required to file pursuant to §§ 1-1162.24 and 1-1162.25 ("Filers") shall be provided with an ethics manual and information about the Code of Conduct.

(2) No later than 90 days after commencement of employment, Filers shall certify that they have undergone ethics training developed by the District of Columbia Board of Ethics and Government Accountability. The required training may be provided electronically, in person, or both as considered appropriate by the District of Columbia Board of Ethics and Government Accountability.

(3) Filers shall certify on an annual basis that they have completed at least one ethics training program within the previous year.

(a-3) Notwithstanding the penalty provisions of this chapter, any public official who knowingly violates any provision of subsection (a-2) of this section may be subject to an adverse performance action but not termination.

(b) The Mayor shall issue rules and regulations governing the ethical conduct of all District employees after consultation with the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia, and recognized labor representatives of District employees, and shall require the submission by designated employees at a policy making, contract negotiating, or purchasing level of reports of financial interest in matters which may create conflicts of interest. The Mayor shall provide for the annual auditing of all reports filed under the authority of this subsection.

(Mar. 3, 1979, D.C. Law 2-139, § 1801, 25 DCR 5740; Feb. 24, 1987, D.C. Law 6-177, § 3(y), 33 DCR 7241; Sept. 26, 1990, D.C. Law 8-169, § 2(b), 37 DCR 4835; Aug. 1, 1996, D.C. Law 11-152, § 302(x), 43 DCR 2978; Oct. 19, 2002, D.C. Law 14-213, § 3(l), 49 DCR 8140; Apr. 27, 2012, D.C. Law 19-124, § 501(c)(3), 59 DCR 1862.)

Section references. — This section is referenced in § 1-1161.01 and § 2-359.10.

Effect of amendments.

D.C. Law 19-124, in subsecs. (a) and (a-1), substituted "employee, member of a board or commission, or a public official" for "employee"; and added subsecs. (a-2) and (a-3).

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-122.

§ 1-618.03. Ethics counselors; codification of advisory opinions. [Repealed].

Repealed.

(Mar. 3, 1979, D.C. Law 2-139, § 1803, 25 DCR 5740; Apr. 23, 1980, D.C. Law 3-58, § 3, 27 DCR 963; Feb. 24, 1987, D.C. Law 6-177, § 3(z), 33 DCR 7241; Aug. 1, 1996, D.C. Law 11-152, § 302(y), 43 DCR 2978; April 27, 2012, D.C. Law 19-124, § 501(c)(5), 59 DCR 1862.)

Subchapter XX-B. Mandatory Drug and Alcohol Testing of Certain Employees of the Department of Human Services and the Commission on Mental Health Services.

§ 1-620.24. Implied consent of employees who operate motor vehicles.

Any Department of Mental Health or Department of Human Services employee who operates a motor vehicle in the performance of his or her employment within the District of Columbia shall be deemed to have given his or her consent, subject to the provisions of this subchapter, to the testing of the employee's urine or breath, for the purpose of determining drug or alcohol content, whenever a supervisor has the probable cause or a police officer arrests such employee for a violation of § 50-2201.05 or has reasonable grounds to believe such employee to have been operating or in physical control of a motor vehicle within the District while that employee is intoxicated as defined by § 50-2206.01(9), or while under the influence of an intoxicating liquor or any drug or any combination thereof, or while the employee's ability to operate a motor vehicle was impaired by the consumption of intoxicating liquor.

(Mar. 3, 1979, D.C. Law 2-139, § 2024, as added, Apr. 13, 1999, D.C. Law 12-227, § 2, 46 DCR 502; Dec. 18, 2001, D.C. Law 14-56, § 116(a)(6), 48 DCR 7674; Mar. 2, 2007, D.C. Law 16-195, § 4(a), 53 DCR 8675; Apr. 27, 2013, D.C. Law 19-266, § 304(a), 59 DCR 12957.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-266 substituted "employee is intoxicated as defined by § 50-2206.01(9)" for "employee's alcohol con-

centration was 0.08 grams or more per 210 liters of breath."

Emergency legislation.

For temporary amendment of section, see § 304(a) of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

For temporary (90 days) amendment of this section, see § 304(a) of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) amendment of this section, see § 304(a) of the Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Act of 2013 (D.C. Act 20-51, April 17, 2013, 60 DCR 6344, 20 DCSTAT 1360).

Legislative history of Law 19-266. — Law 19-266, the "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-777. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 24, 2012, it was assigned Act No. 19-489 and transmitted to Congress for its review. D.C. Law 19-266 became effective on Apr. 27, 2013.

Subchapter XX-C. Mandatory Drug and Alcohol Testing for Certain Employees Who Serve Children.

§ 1-620.33. Motor vehicle operators.

Any District government employee who operates a motor vehicle in the performance of his or her employment within the District of Columbia shall be deemed to have given his or her consent, subject to the conditions in this subchapter, to the testing of the employee's urine or breath for the purpose of determining drug or alcohol content whenever a supervisor has probable cause or a police officer arrests such person for a violation of the law and has reasonable grounds to believe such person to have been operating or in physical control of a motor vehicle within the District while that person is intoxicated as defined by § 50-2206.01(9), or while under the influence of an intoxicating liquor or any drug or combination thereof, or while that person's ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor.

(Mar. 3, 1979, D.C. Law 2-139, § 2033, as added Apr. 13, 2005, D.C. Law 15-353, § 102, 52 DCR 2331; Mar. 2, 2007, D.C. Law 16-195, § 4(b), 53 DCR 8675; Apr. 27, 2013, D.C. Law 19-266, § 304(b), 59 DCR 12957.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-266 substituted "person is intoxicated as defined by § 50-2206.01(9)" for "person's alcohol concentration was 0.08 grams or more per 210 liters of breath."

Emergency legislation.

For temporary amendment of section, see § 304(b) of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

For temporary (90 days) amendment of this section, see § 304(b) of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) amendment of this section, see § 304(b) of the Comprehensive Impaired Driving and Alcohol Testing Program Second Congressional Review Emergency Act of 2013 (D.C. Act 20-51, April 17, 2013, 60 DCR 6344, 20 DCSTAT 1360).

Legislative history of Law 19-266. — See note to § 1-620.24.

Subchapter XX-D. Criminal History Inquiries.

§ 1-620.44. Implementation for public employers.

Temporary Addition of Subchapter. — Section 2(a) of D.C. Law 19-263 added D.C. Law 2-139, Title XX-E, to read as follows:

"TITLE XX-E. Mandatory Controlled Substance and Alcohol Testing for Protection-Sensitive Positions.

"Sec. 2051. Definitions.

"For the purposes of this title, the term:

"(1) 'Applicant' means a person who has filed a written or electronic employment application or resumé, or a person seeking a volunteer appointment, with the District government for a position covered by the provisions of this title.

"(2) 'Appointee' means a person who has been made a contingent job offer to a position subject to the provisions of this title.

"(3) 'Covered employee' means a District government employee occupying a protection-sensitive position.

"(4) 'Drug' means a substance which may have medicinal, intoxicating, performance enhancing or other effects when taken or put into a human body and is not considered a food or exclusively a food.

"(5) 'Personnel authority' means an individual or entity authorized by section 406 to implement personnel rules and regulations for employees of an agency or group of agencies of the District government or persons delegated this authority by such an individual or entity.

"(6) 'Post-accident employee' means an employee of the District government, who, while on-duty, is involved in a vehicular or other type of accident resulting in personal injury or property damage, or both, in which the cause of the accident could reasonably be believed to have been the result, in whole or in part, of the use of drugs or alcohol on the part of the employee.

"(7) 'Protection-sensitive position' means a District government employee, volunteer, or contractual worker in a position having a duty station at the Consolidated Forensic Sciences Laboratory.

"(8) 'Reasonable suspicion' means a reasonable belief by a supervisor that an employee in a protection-sensitive position is under the influence of an illegal drug or alcohol to the extent that the employee's ability to perform the employee's job may be impaired.

"(9) 'Reasonable suspicion referral' means referral of an employee in a protection-sensitive position for testing by the District government for drug or alcohol use.

"(10) 'Volunteer' means an individual who works without monetary or other financial compensation.

"(11) 'Vulnerable adult' means an individual 18 years of age or older who has a physical or mental condition which impairs the individual's ability to provide for the individual's own care or protection.

"Sec. 2052. Drug and alcohol testing for protection-sensitive positions.

"The following individuals shall be tested by the District government for drug and alcohol use:

"(1) Employees in protection-sensitive positions, on a random basis;

"(2) Appointees to protection-sensitive positions;

"(3) Volunteers serving in protection-sensitive positions;

"(4) Applicants under consideration for voluntary service in protection- sensitive positions;

"(5) District employees and volunteers in protection-sensitive positions who have had a reasonable suspicion referral; and

"(6) Post-accident District employees and volunteers in protection-sensitive positions.

"Sec. 2053. Notification of employees.

"(a) All District government employees in protection-sensitive positions shall be given a minimum of 30 days written notice before the implementation of the drug and alcohol testing program set forth by this title. Upon receipt of a written notice of the program, each employee shall be given one opportunity to seek treatment, if the employee has a drug or alcohol problem.

"(b) Upon expiration of the notice period, any confirmed positive drug or alcohol test result, refusal to submit to a drug or alcohol test, or failure to sign the required documents or otherwise cooperate with any part of the drug testing requirements shall result in termination of the employee's employment in accordance with this title.

"Sec. 2054. Notice to appointees and volunteers.

"(a) Each vacancy announcement for a protection-sensitive position shall include a statement that applicants shall be tested for drug use upon initial appointment and shall be subject to periodic drug and alcohol testing while occupying a protection-sensitive position.

"(b) When a non-competitive recruitment procedure is involved, the Mayor or the personnel authority shall inform the appointee, at the time the contingent job offer is made, that the appointee shall be tested for drugs upon initial appointment, and that the appointee shall be

subject to periodic drug and alcohol testing while occupying a protection-sensitive position.

"(c) Before an individual signs a volunteer agreement to perform protection-sensitive functions, the Mayor or the personnel authority shall notify the individual that the individual shall be tested for drug use upon initial appointment, and that the volunteer shall be subject to periodic drug and alcohol testing while performing these functions.

"(d) Upon selection, appointees shall receive written notification prior to testing for drug and alcohol use.

"Sec. 2055. Testing methodology.

"(a) Drug and alcohol analysis shall be performed by an outside contractor at a laboratory certified by the United States Department of Health and Human Services ('HHS') to perform job-related drug and alcohol forensic testing.

"(b) The drug and alcohol testing sample shall be collected at a location designated by the District government.

"(c) The collector shall split each sample and secure it for transport to the laboratory.

"(d) The laboratory shall perform the confirmation testing on one sample, and store the split of that sample.

"(e) An individual found to have a confirmed positive urinalysis shall be notified of the result. The individual may then authorize that the stored sample be sent to another HHS-certified laboratory of the individual's choice, at the individual's expense, for confirmation testing.

"(f) Reasonable suspicion and post-accident employee or volunteer testing shall follow the same procedures set forth in subsections (a), (b), (c), and (d) of this section. In these cases, the employee or volunteer shall be escorted by a supervisor to the contractor's test site for specimen collection or a breathalyzer.

"(g) A blood, breath, or urine test conducted pursuant to this section shall be deemed confirmed positive if the test yields a result that the employee's or volunteer's alcohol content was either .04 grams or more per 210 liters of breath, .04 grams or more per 100 milliliters of blood, or .05 grams or more per 100 milliliters of urine.

"Sec. 2056. Positive test results.

"(a) An individual found to have a positive drug or alcohol test shall be notified in writing of the result. The individual may then authorize that the stored sample be sent to another HHS-certified laboratory of the individual's choice, at the individual's expense, for confirmation testing.

"(b) A positive drug or alcohol test, a refusal to submit to a drug or alcohol test, tampering with a drug or alcohol test, or failure to sign required documents or otherwise cooperate with any part of the drug testing requirements shall result in termination of employment, withdrawal of a contingent job offer, termination of a volunteer agreement, or withdrawal of a contingent volunteer service agreement.

"(c) The results of a drug or alcohol test conducted pursuant to this title shall not be turned over to a law enforcement agency without the written consent of the employee, appointee, volunteer or a subpoena or court order.

"Sec. 2057. Coverage of private contractual providers.

"Private entities that contracts with the District government to provide contract employees to work in protection-sensitive positions shall establish mandatory drug and alcohol testing policies and procedures that are consistent with the requirements of this subchapter.

"Sec. 2058. Submission of positions subject to mandatory drug and alcohol testing.

"(a) Within 60 days after the effective date of this title, personnel authorities shall submit to the Mayor a list of the positions it has designated as subject to the drug and alcohol testing requirements of this title.

"(b) Within 60 days after the effective date of this title, the Chief Procurement Officer shall submit to the Mayor a list of positions in private entities that contract with the District government and are subject to drug and alcohol testing pursuant to this title.

"(c) Personnel authorities shall submit an updated list of the positions subject to the mandatory drug and alcohol testing of this title no later than December 1 of each year.

"(d) The Chief Procurement Officer shall submit to the Mayor each quarter an updated list of the positions in private entities that contract with the District government that are subject to the drug and alcohol testing of this title.

"Sec. 2059. Applicability.

"(a) If, as of the effective date of this act, a District government agency has its own statutory or regulatory drug and alcohol testing policies and procedures and those policies or procedures are stricter than the provisions of this title, this title shall supplement and not replace the agency's policies and procedures.

"(b) The provisions of this title shall be in addition to, and shall not repeal, the provisions of section 2051 of the Omnibus Personnel Reform Amendment Act of 1998, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § 1-620.11), sections 2021, 2022, 2023, 2024, and 2025 of the Department of Human Services and Commission on Mental Health Services Mandatory Employee Drug and Alcohol Testing and Department of Corrections Conforming Amendment Act of 1999, effective April 13, 1999 (D.C. Law 12- 227; D.C. Official Code §§ 1-620.21 through 1-620.25), sections 2031, 2032, 2033, 2034, 2035, 2036, and 2037 of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§ 1-620.31

through 1-620.37), section 18 of the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-217), sections 2, 3, 4, and 5 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing of 1996, effective September 20, 1996 (D.C. Law 11-158; D.C. Official Code §§ 24-211.21 through 24-211.24), and Chapter 39 of Title 6B of the District of Columbia Municipal Regulations (6B DMCR § 3900 et seq.), entitled 'Testing for the Presence of Controlled Substances and Alcohol.

"Sec. 2060. Rules.

"Within 120 days of the effective date of this title, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall issue rules to implement the provisions of this title."

Temporary Addition of Subchapter. — Section 2(b) of D.C. Law 19-263 added D.C. Law 2-139, Title XX-F, to read as follows:

"(A) TITLE XX-F. Criminal Background Checks and Background Investigations for Protection-Sensitive Positions of 2012.

"(A) Sec. 2061. Definitions.

"(A) For the purposes of this title, the term:

"(1) 'Applicant' means a person who has filed a written or electronic employment application, or resumé, or a person seeking a volunteer appointment, with the District government for a position covered by the provisions of this title.

"(2) 'Appointee' means a person who has been made a contingent job offer to a position covered by the provisions of this title.

"(3) 'Background investigation' means a thorough inquiry into the past and present conduct and behavior of an applicant, appointee, employee, or volunteer to determine his or her suitability for employment.

"(4) 'Covered employee' means a District government employee occupying a protection-sensitive position.

"(5) 'Criminal background check' means the investigation of an individual's criminal history through the record systems of the Federal Bureau of Investigation, the Metropolitan Police Department, or other law enforcement agencies.

"(6) 'Employee' means an individual who is employed on a full-time, part- time, or temporary basis by the District government.

"(7) 'FBI' means the Federal Bureau of Investigation.

"(8) 'MPD' means the Metropolitan Police Department.

"(9) 'Personnel authority' means an individual or entity authorized by section 406 to implement personnel rules and regulations for employees of an agency or group of agencies of the District government or persons delegated such authority by such an individual or entity.

"(10) 'Protection-sensitive position' means any District government employee, volunteer, or contractual worker in a position having a duty station at the Consolidated Forensic Sciences Laboratory.

"(11) 'Suitability' means the quality or state of being acceptable for District government employment with respect to the character, reputation, qualification, and fitness of the person under consideration.

"(12) 'Supervised' means under the direction of an individual who has received a current, satisfactory background clearance.

"(13) 'Volunteer' means an individual who performs a protection-sensitive function without monetary or other financial compensation.

"(14) 'Vulnerable adult' means an individual 18 years of age or older who has a physical or mental condition which impairs the individual's ability from providing for the individual's own care or protection.

"Sec. 2062. Criminal background checks required for certain individuals.

"(a) Except as set forth in subsection (b) of this section, the following individuals shall be subject to criminal background checks:

"(1) An appointee to, or an applicant for, a protection-sensitive position;

"(2) A volunteer who performs a protection-sensitive function; and

"(3) A District government employee occupying a protection-sensitive position.

"(b) An individual with proof of an active federal security clearance may be subject to a criminal background check under subsection (a) of this section.

"Sec. 2063. Authorization to obtain records and notification requirements.

"(a) For competitive recruitments, each vacancy announcement for a position subject to a criminal background check under this title shall include a statement that applicants shall be subject to a criminal background check and a background investigation upon initial appointment to the position and shall be subject to ongoing criminal background checks while employed in the position.

"(b) When a non-competitive recruitment procedure is involved, the Mayor or the personnel authority shall inform the appointee at the time the contingent job offer is made that the appointee shall be subject to a criminal background check before to employment in the covered position and shall be subject to ongoing criminal background checks while employed in the position.

"(c) Before a volunteer signs a volunteer agreement to perform protection-sensitive functions, the Mayor or the personnel authority shall notify the volunteer that a criminal background check shall be conducted before the volunteer begins his or her volunteer activities and shall be subject to ongoing criminal back-

ground checks while performing these functions.

"Sec. 2064. Procedures for criminal background checks.

"(a) In order to conduct a criminal background check on an applicant, appointee, volunteer, or covered employee, the Mayor or the personnel authority shall obtain criminal background records maintained by the FBI, MPD, and any jurisdiction in which the applicant, appointee, volunteer, or covered employee has resided or been employed or may otherwise have a criminal history.

"(b) An applicant, appointee, volunteer, or covered employee subject to a criminal background check shall allow himself or herself to be fingerprinted and shall submit any information necessary or useful to conduct the criminal background check as requested by the Mayor or the personnel authority. The fingerprints shall be available for use by the Mayor or the personnel authority to conduct a criminal background check.

"(c) The Mayor or the personnel authority shall conduct criminal background checks, including the fingerprinting of applicants, appointees, volunteers, and covered employees, in accordance with FBI policies and procedures and in an FBI-approved environment.

"(d) The Mayor or the personnel authority shall conduct a criminal background check once the applicant, appointee, covered employee, or volunteer has provided:

"(1) A complete set of qualified, legible fingerprints, in a form approved by the FBI;

"(2) Written confirmation that the applicant, appointee, covered employee, or volunteer has been informed by the Mayor or the personnel authority that they are authorized to conduct a criminal background check on the applicant, appointee, covered employee, or volunteer;

"(3) Written authorization for the Mayor or the personnel authority to conduct a criminal background check;

"(4) Any additional identification that is required, including the name, social security number, birth date, and gender of the applicant, appointee, covered employee or volunteer;

"(5) A signed affirmation stating whether or not the applicant, appointee, covered employee, or volunteer has been convicted of, entered a guilty plea, including a plea of nolo contendere to, or has been found not guilty by reason of insanity of any crime in the District of Columbia or in any other state or territory;

"(6) Written acknowledgment that the Mayor or the personnel authority has notified the applicant, appointee, covered employee, or volunteer of his or her right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report; and

"(7) Written acknowledgment that the Mayor or the personnel authority may choose to deny the applicant or appointee employment or a volunteer position, or terminate a covered employee or volunteer, based on the outcome of the criminal background check.

"(e) Fingerprinting for the purposes of this section may be conducted by any person authorized to do so by the Mayor or the FBI.

"Sec. 2065. Background investigations.

"(a) In addition to criminal background checks, the individuals listed in section 2062 may be subject to background investigations.

"(b) A background investigation pursuant to this title shall consist of:

"(1) A credit check of the applicant, appointee, covered employee, or volunteer that adheres to the notification and consent requirements of the Fair Credit Reporting Act, approved October 26, 1970 (Pub. L. 91-508; 15 USC § 1681), and any other applicable law or regulation, as appropriate;

"(2) A traffic record check, as appropriate; and

"(3) The acquisition and consideration of any other information allowed by law that assists in establishing the suitability for employment of an applicant, appointee, covered employee, or volunteer, including employment history checks and reference checks.

"(c) Any other information allowable by law that shall assist in establishing the suitability of an applicant, appointee, volunteer, or covered employee for employment or volunteer work with the District government.

"Sec. 2066. Assessment of information obtained from criminal background checks and background investigations.

"(a) The information obtained from a criminal background check or background investigation shall not create an automatic presumption against employment of an applicant, appointee, covered employee, or volunteer. The Mayor or the personnel authority shall determine whether the applicant, appointee, covered employee, or volunteer is unsuitable for employment because of his or her criminal history and background. In making this determination, the Mayor or the personnel authority shall consider the following factors:

"(1) The specific duties and responsibilities of the covered position;

"(2) The bearing, if any, the criminal offense or background information will have on the fitness or ability of the applicant, appointee, covered employee, or volunteer to perform one or more of such duties or responsibilities;

"(3) The time which has elapsed since the occurrence of the criminal offense or negative background information;

"(4) The age of the applicant, appointee, covered employee, or volunteer at the time of the occurrence of the criminal offense or negative background information;

"(5) The frequency and seriousness of the criminal offense or negative background information;

"(6) Any information provided on behalf of the applicant, appointee, covered employee, or volunteer or provided regarding his or her rehabilitation and good conduct since the occurrence of the criminal offense or negative background information; and

"(7) The public policy that it is beneficial generally for ex-offenders to obtain employment.

"(b) If the Mayor or the personnel authority determines that an applicant, appointee, volunteer, or covered employee shall not remain in his or her position because he or she has been determined unsuitable for employment because of the individual's criminal history and background, the Mayor or the personnel authority shall inform the applicant, appointee, volunteer, or covered employee in writing.

"Sec. 2067. Appeals.

"(a) A covered employee who the Mayor or the personnel authority has determined shall not remain in his or her position because of being determined unsuitable for employment due to the covered employee's criminal history or background investigation shall have the following appeal rights:

"(1) A covered employee in a position under the Career Service (non-probationary status), Excepted, Executive, Legal, Management Supervisory Service, or in a non-excluded Educational Service position who is not on probationary status may appeal the decision; or

"(2) A covered employee on probationary status or a volunteer may not appeal the decision.

"(b) The Mayor or the personnel authority shall issue rules setting forth the appeal process for an applicant, appointee, or covered employee who is determined unsuitable for employment because of his or her criminal history and background.

"Sec. 2068. Submission of positions subject to criminal background checks.

"(a) Within 60 days after the effective date of this subchapter, each personnel authority shall submit to the Mayor a list of the positions it has designated as subject to the criminal background check requirements of this subchapter.

"(b) Within 60 days after the effective date of this title, the Chief Procurement Officer shall submit to the Mayor a list of the positions in private entities that contract with the District government that shall be subject to criminal background checks pursuant to this title.

"(c) Personnel authorities shall submit to the Mayor an updated list of the positions subject to the background investigation requirements of this title no later than December 1 of each year.

"(d) The Chief Procurement Officer shall submit to the Mayor quarterly reports listing the positions in private entities that contract with the District government that are subject to the requirements of this title.

"Sec. 2069. Confidentiality of criminal history and background investigation information.

"All criminal history and background information records received by the Mayor or the personnel authority shall be confidential and are for the exclusive purpose of making employment-related determinations under this title. The criminal history and background information records shall not be released or otherwise disclosed to any person except when:

"(1) Required as a component of an application for employment for a position under this title;

"(2) Requested by the Mayor, or his or her designee, during an official inspection or investigation;

"(3) Ordered by a court of competent jurisdiction;

"(4) Authorized by the written consent of the person being investigated; or

"(5) Utilized for a corrective, adverse, or other administrative action in a personnel proceeding related to the position for which the investigation was conducted or any position to which the employee advanced from that position in the District government.

"Sec. 2070. Penalty for providing false information regarding criminal history or background investigations.

"(a) An applicant or appointee under this title who knowingly or through gross negligence provides false information that is material to the conduct of a criminal history check or background investigation shall be denied employment.

"(b) An employee under this title who knowingly or through gross negligence provides false information that is material to the conduct of a criminal history check or background investigation shall be terminated from employment.

"(c) A volunteer under this title who knowingly or through gross negligence provides false information that is material to the conduct of a criminal history check or background investigation shall be prohibited from performing volunteer services for the District government.

"Sec. 2071. Penalties for disclosing confidential criminal history or background investigation information.

"(a) An individual who knowingly discloses criminal history or background investigation information in violation of section 2069 is guilty of a criminal offense and, upon conviction, shall be fined no more than $1,000 or imprisoned for not more than 180 days, or both.

"(b) Prosecutions for violations of this title shall be brought in the Superior Court of the District of Columbia by the Office of the Attorney General for the District of Columbia.

"Sec. 2072. Coverage of private contractual entities.

"Private entities that contract with the District government to provide employees to work in protection-sensitive positions shall establish criminal history check and background investigation policies and procedures that are consistent with the requirements of this title.

"Sec. 2073. Applicability.

"(a) If, as of the effective date of this title, a District government agency has its own criminal history check or background investigation policies and procedures, and those existing policies or procedures are stricter than the provisions of this title, this title shall supplement and shall not replace the agency's policies and procedures.

"(b) The provisions of this title shall be in addition to, and shall not repeal, the provisions of section 522 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1985 (D.C. Law 6-99; D.C. Official Code § 3-1205.22), the Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 et seq.), the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551 et seq.), section 2 of the Department of Corrections Criminal Background Investigation Authorization Act of 1998, effective June 19, 1998 (D.C. Law 12-126; D.C. Official Code § 24-211.41), and Chapter 4 of Title 6B of the District of Columbia Municipal Regulations (6B DCMR § 4), entitled 'Organization for Personnel Management.

"Sec. 2074. Rules.

"Within 120 days of the effective date of this title, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall issue rules to implement the provisions of this title."

Section 4(b) of D.C. Law 19-263 provided that the act shall expire after 225 days of its having taken effect.

For temporary (225 days) addition of D.C. Law 2-139, Title XX-E, concerning mandatory controlled substance and alcohol testing for protection-sensitive positions, see § 2(a) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Temporary Amendment Act of 2013 (D.C. Law 20-77, February 22, 2014, 61 DCR 140).

For temporary (225 days) addition of D.C. Law 2-139, Title XX-F, concerning criminal background checks and background investigations for protection-sensitive positions, see § 2(b) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Temporary Amendment Act of 2013 (D.C. Law 20-77, February 22, 2014, 61 DCR 140).

Emergency legislation. — For temporary addition of D.C. Law 2-139, Title XX-E, concerning mandatory controlled substance and alcohol testing for protection-sensitive positions, see § 2(a) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Amendment Act of 2012 (D.C. Act 19-582, December 22, 2012, 60 DCR 120).

For temporary addition of D.C. Law 2-139, Title XX-F, concerning criminal background checks and background investigations for protection-sensitive positions, see § 2(b) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Amendment Act of 2012 (D.C. Act 19-582, December 22, 2012, 60 DCR 120).

For temporary (90 days) addition of subchapter XX-E, see § 2(a) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-36, March 19, 2013, 60 DCR 4648, 20 DCSTAT 510).

For temporary (90 days) addition of subchapter XX-F, see § 2(b) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-36, March 19, 2013, 60 DCR 4648, 20 DCSTAT 510).

For temporary (90 days) addition of D.C. Law 2-139, Title XX-E, concerning mandatory controlled substance and alcohol testing for protection-sensitive positions, see § 2(a) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Amendment Act of 2013 (D.C. Act 20-227, November 29, 2013, 60 DCR 16775, 20 STAT 2618).

For temporary (90 days) addition of D.C. Law 2-139, Title XX-F, concerning criminal background checks and background investigations for protection-sensitive positions, see § 2(b) of the Controlled Substance, Alcohol Testing, Criminal Background Check and Background Investigation Emergency Amendment Act of 2013 (D.C. Act 20-227, November 29, 2013, 60 DCR 16775, 20 STAT 2618).

Subchapter XXI. Health Benefits.

§ 1-621.09. District contribution.

(a) The District's contribution to the cost of any health benefit plan shall be an amount equal to 75% of the subscription charge of the standard option indemnity plan, except that in no event shall the District's contribution exceed 75% of the total subscription charge of any plan or option in which the employee is enrolled. The District's contribution shall be paid on a regular pay period basis.

(b) The Mayor shall determine the amount of the District contribution for individual and for self and family enrollments before the beginning date of each contract period.

(c) There is established the Annuitants' Health and Life Insurance Employer Contribution Trust Fund ("Fund") from which the District's contribution for health and life insurance for annuitants shall be paid. The monies in the Fund shall not be a part of, or lapse into, the General Fund of the District or any other fund of the District.

(d) Every fiscal year, the Chief Financial Officer shall deposit into the Fund the amount that has been appropriated for the purpose of funding the District contribution for the health and life insurance premiums of annuitants. The Chief Financial Officer may also deposit into the Fund any balances in rate stabilization fund reserves that are refunded to the District by a health insurance carrier.

(e) Notwithstanding the other provisions of this chapter, the Mayor may issue rules to establish vesting requirements for the provision of other post-employment benefits to annuitants. Any proposed rules promulgated by the Mayor shall be submitted to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules within the 60-day period, by resolution, the proposed rules shall be deemed disapproved.

(f) In the case of an annuitant who has separated pursuant to the District Retirement Benefit Program, no contribution shall be made by the District until the annuitant attains 62 years of age. The annuitant shall pay 100% of the cost of any health benefit plan selected by the annuitant until the annuitant attains age 62. Upon attaining 62 years of age, the District shall pay a portion of the cost of any health benefit plan selected by the annuitant in accordance with subsections (h)(1) or (2) of this section.

(g) In the case of an annuitant described in subsection (g) of this section who retired pursuant to the Teachers' Retirement System, or the Judges' Retirement System or the Teachers' Insurance and Annuity Association programs, the District shall pay the portion of the cost of any health benefit plan selected by the annuitant in accordance with subsection (h) of this section.

(h) The District contribution to post-employment health benefits for an annuitant described in subsection (g) of this section (and following the annuitant's death, the annuitant's eligible family members) shall be determined as follows:

(1) For annuitants who retire with at least 10 years of creditable District service, but less than 30 years of creditable District service, the District contribution to the cost of a health benefit plan selected by the annuitant shall be an amount equal to 25% of the cost of the selected health benefit plan (as secondary to Medicare) and 20% for the covered family member of the annuitant, plus an additional 2.5% for each year of creditable District service over 10 years; provided, that the District contribution shall not exceed 75% of the cost of the selected health benefits plan and 60% for the covered family member of the annuitant. The annuitant and family member shall contribute the applicable balance of the cost of the selected health benefit plan.

(2) For annuitants with 30 or more years of creditable District service, the District contribution shall be an amount equal to 75% of the cost of the selected health benefit plan and the annuitant shall contribute 25% of the cost of the selected health benefit plan. For a covered family member of an annuitant, the District contribution shall be an amount equal to 60% of the cost of the selected health benefit plan and the covered family member shall contribute 40% of the cost of the selected health benefit plan.

(3) For annuitants who are injured or killed in the line of duty, the District's contribution shall be an amount equal to 75% of the cost of the selected health benefit plan and the annuitant shall contribute 25% of the cost of the selected health benefit plan. For a covered family member of an annuitant, the District contribution shall be an amount equal to 75% of the cost of the selected health benefit plan and the family member shall contribute 25% of the cost of the selected health benefit plan. This paragraph shall apply as of October 1, 2009.

(i) In the case of an annuitant who retired pursuant to the Police and Fire Retirement System, the District shall pay the portion of the cost of any health benefit plan selected by the annuitant in accordance with subsection (j) of this section.

(j) The District contribution to post-employment health benefits for an annuitant (and following the annuitant's death, the annuitant's eligible family members) shall be determined as follows:

(1) For annuitants hired before November 10, 1996, who retire with at least 5 years of creditable District service, the District contribution shall be an amount equal to 75% of the cost of the selected health benefit plan and the annuitant shall contribute 25% of the cost of the selected health benefit plan. For a covered family member of an annuitant, the District contribution shall be an amount equal to 60% of the cost of the selected health benefit plan and the covered family member shall contribute 40% of the cost of the selected health benefit plan.

(2) For annuitants hired on or after November 10, 1996, with at least 10 years of creditable District service, but less than 25 years of creditable District service, the District contribution to the cost of a health benefit plan selected by the annuitant shall be an amount equal to 30% of the cost of the selected health benefit plan (as secondary to Medicare) for the annuitant, plus an additional 3% for each year of creditable District service over 10 years, and 25% for the covered family member of the annuitant, plus an additional 3% for each year

of creditable District service over 10 years; provided, that the District contribution shall not exceed 75% of the cost of the selected health benefits plan for the annuitant and 60% of the cost of the selected health benefits plan for the covered family member of the annuitant. The annuitant and family member shall contribute the applicable balance of the cost of the selected health benefit plan.

(k) In the case of an individual who would otherwise be subject to the Police and Fire Retirement System upon retirement but who is killed in the line of duty and in the case of an individual who retires under the Police and Fire Retirement System due to an injury that occurred in the line of duty, the District shall pay the portion of the cost of any health benefit plan selected by the individual or the individual family member in accordance with subsection (1) of this section.

(l) For an individual covered by subsection (k) of this section, the District's contribution to the cost of the selected health benefits plan of the individual shall be an amount equal to 75% of the cost of the selected health benefit plan and the individual shall contribute 25% of the cost of the selected health benefit plan. For a covered family member of the individual, the District contribution to the cost of the selected health benefit plan of the family member shall be an amount equal to 75% of the cost of the selected health benefit plan and the family member shall contribute 25% of the cost of the selected health benefit plan.

(m) An individual described in subsection (k) of this section shall be considered an annuitant for the purposes of this section.

(Mar. 3, 1979, D.C. Law 2-139, § 2109, as added Oct. 1, 1987, D.C. Law 7-27, § 2(d), 34 DCR 5079; Mar. 2, 1991, D.C. Law 8-190, § 2(c), 37 DCR 6721; Mar. 7, 2000, D.C. Law 13-54, § 2(a), 46 DCR 9915; Aug. 16, 2008, D.C. Law 17-219, § 7008, 55 DCR 7598; Mar. 3, 2010, D.C. Law 18-111, § 1201(b), 57 DCR 181; D.C. Law 18-223, § 1092(a), Sept. 24, 2010, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 102, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 1052, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 1012, 59 DCR 8025.)

Section references. — This section is referenced in § 1-621.17 and § 1-622.11.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "75%" for "72%" throughout (a), (h), (j), and (l); and substituted "25%" for "28%" in (h)(2), twice in (h)(3), (j)(1), and twice in (l).

Emergency legislation.

For temporary (90 day) amendment of section, see § 1012 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1012 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter XXIII. Public Sector Workers' Compensation.

§ 1-623.01. Definitions.

Section references. — This section is referenced in § 1-623.10, § 1-623.18, § 1-623.33, and § 7-2361.11.

CASE NOTES

Exclusivity provision.

Former assistant principal failed to state a claim for which relief could be granted where she alleged wrongful discharge and retaliation claims pursuant to D.C. Code § 32-1542, because the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., provides the exclusive remedy for a District of Columbia public employee who has a work-related complaint of any kind. Lewis v. District of Columbia, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 116065 (D.D.C. Aug. 17, 2012).

§ 1-623.02. Compensation for disability or death of employee.

Editor's notes. — Section 1122(a) of D.C. Law 19-168 repealed (b) and (c). However, Section 1123 of D.C. Law 19-168 provided that § 1122 of the act shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) through (29) of Title X of D.C. Law 19-168.

CASE NOTES

Construction with other law.

Former employee (assistant principal) could bring a retaliation claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3(a), based upon the employer's failure to file workers' compensation documents on time, because the employee alleged two distinct, different claims that could be pleaded in the alternative with regard to the employer's alleged inaction; even though the Comprehensive Merit Personnel Act, D.C. Code § 1-601.01 et seq., provided the exclusive remedy for the employee's claim of retaliation because she sought workers' compensation benefits, the employee's claim of retaliation based on her Title VII protected activity arose under Title VII which provided separate grounds for relief for proven retaliation. Lewis v. District of Columbia, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 116065 (D.D.C. Aug. 17, 2012).

§ 1-623.06. Partial disability.

(a) If the disability is partial, subject to limitations in § 1-623.06a, the District government shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of the difference between his or her monthly pay and his or her monthly wage-earning capacity after the beginning of the partial disability. This shall be known as his or her basic compensation for partial disability.

(b)(1) The Mayor shall require each employee receiving benefits under this subchapter to report his or her earnings from employment or self-employment by affidavit, including by providing copies of tax documents and authorizing the Mayor to obtain copies of tax documents, within 30 days of a written request for a report of earnings.

(2) An employee shall forfeit his or her right to workers' compensation

with respect to any period for which the report of earnings was required if the employee:

(A) Fails to file a complete report of earnings within 30 days of a written request for a report of earnings; or

(B) Knowingly omits or understates any part of his or her earnings.

(3) Workers' compensation forfeited under this section, if already paid, may be recovered by a deduction from future workers' compensation payments owed to the employee or otherwise recovered under § 1-623.29.

(4) The Mayor shall notify any employee receiving workers' compensation benefits, on forms prescribed by the Mayor, of that employee's affirmative duty to report earnings and shall specifically notify the employee that a failure to report earnings may subject him or her to termination from the program and civil or criminal liability. The notice by the Mayor may be satisfied by printing the notice on the employee payee statement portion of indemnity check sent to the employee.

(5) For the purposes of this subsection, the term "earnings" includes any cash, wages, or salary received from self-employment or from any other employment aside from the employment in which the worker was injured. The term "earnings" also includes commissions, bonuses, and the cash value of all payments and benefits received in any form other than cash. Commissions and bonuses earned before disability but received during the time the employee is receiving workers' compensation benefits do not constitute earnings that must be reported.

(c) An employee with a partial disability who:

(1) Refuses to seek suitable work; or

(2) Refuses or neglects to work after suitable work is offered to, procured by, or secured for him or her is not entitled to compensation and such payment shall be suspended.

(Mar. 3, 1979, D.C. Law 2-139, § 2306, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(p), 27 DCR 2632; Oct. 3, 2001, D.C. Law 14-28, § 1203(d), 48 DCR 6981; Apr. 24, 2007, D.C. Law 16-305, § 3(h), 53 DCR 6198; Sept. 24, 2010, D.C. Law 18-223, § 1062(b)(6), 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 1032(a), 59 DCR 8025.)

Section references. — This section is referenced in § 1-623.04, § 1-623.07, and § 1-623.10.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (b).

Emergency legislation.

For temporary (90 day) amendment of section, see § 1032(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1032(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 1-623.02.

§ 1-623.07. Compensation schedule.

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection

(c) of this section, at the rate of 66⅔ percent of his or her monthly pay. The basic compensation shall be:

(1) Payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) Payable regardless of whether the disability also involves another impairment of the body; and

(3) In addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by the following:

(1) Section 1-623.05, if the disability is total; or

(2) Section 1-623.06, if the disability is partial.

(c) The compensation schedule is as follows:

(1) Arm lost, 312 weeks' compensation;

(2) Leg lost, 288 weeks' compensation;

(3) Hand lost, 244 weeks' compensation;

(4) Foot lost, 205 weeks' compensation;

(5) Eye lost, 160 weeks' compensation;

(6) Thumb lost, 75 weeks' compensation;

(7) First finger lost, 46 weeks' compensation;

(8) Great toe lost, 38 weeks' compensation;

(9) Second finger lost, 30 weeks' compensation;

(10) Third finger lost, 25 weeks' compensation;

(11) Toe other than great toe lost, 16 weeks' compensation;

(12) Fourth finger lost, 15 weeks' compensation;

(13) Loss of hearing:

(A) Complete loss of hearing of 1 ear, 52 weeks' compensation; or

(B) Complete loss of hearing of both ears, 200 weeks' compensation;

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of any eye is the same as for loss of the eye;

(15) Compensation for loss of more than 1 phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the 1st phalanx is one-half of the compensation for loss of the entire digit;

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively;

(17) Compensation for loss of use of 2 or more digits or 1 or more phalanges of each of 2 or more digits of a hand or foot is proportioned to the loss of the use of the hand or foot occasioned thereby;

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member;

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction;

(20) In case of loss of use of more than 1 member or parts of more than 1 member as enumerated by this schedule, the compensation is for loss of the use

of each member or part thereof and the awards run consecutively. When the injury affects only 2 or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears;

(21) For serious disfigurement of the face, head, or neck of a character likely to hinder an individual in securing or maintaining employment, proper and equitable compensation not to exceed $7,500 shall be awarded in addition to any other compensation payable under this schedule; or

(22) For permanent loss or loss of use of any other important external or internal organ of the body, as determined by the Mayor, proper and equitable compensation not to exceed 312 weeks for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

(d) If medical records or other objective evidence substantiate a pre-existing impairment or other impairments or conditions unrelated to the work-related injury, the Mayor shall apportion the pre-existing or unrelated medical impairment from that of the current work-related injury or occupational disease in accordance with American Medical Association Guides to the Evaluation of Permanent Impairment ("AMA Guides"). In making this determination, the Mayor shall consider medical reports by physicians with specific training and experience in the use of the AMA Guides.

(Mar. 3, 1979, D.C. Law 2-139, § 2307, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(q), 27 DCR 2632; Mar. 6, 1991, D.C. Law 8-198, § 3(c), 37 DCR 6890; Sept. 24, 2010, D.C. Law 18-223, § 1062(b)(8), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-169, § 4, 59 DCR 5567.)

Section references. — This section is referenced in § 1-623.08, § 1-623.09, § 1-623.10, § 1-623.15, and § 1-623.16.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "hinder" for "handicap" in (c)(21).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 1-623.13. Increase, decrease, or suspension of compensation.

(a) If an individual: (1) Was a minor or employed in a learner's capacity at the time of injury, and (2) did not have a physical or mental disability before the injury, the Mayor, on review under § 1-623.28 after the time the wage-earning capacity of the individual would probably have increased but for the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable increased wage-earning capacity.

(b) If an individual, without good cause fails to apply for and undergo vocational rehabilitation when so directed under § 1-623.04, the Mayor may review such failure under § 1-623.28. If the Mayor, upon review, finds that in the absence of such failure the wage-earning capacity of the individual would

probably have substantially increased, the Mayor may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his or her wage-earning capacity in the absence of the failure, until such time as the individual in good faith complies with the direction of the Mayor.

(c) If an employee hired after December 31, 1979, without good cause, fails to apply for or undergo vocational rehabilitation when so directed under § 1-623.04, his or her right to compensation under this subchapter shall be suspended until the noncompliance ceases.

(Mar. 3, 1979, D.C. Law 2-139, § 2313, 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(s), 27 DCR 2632; Apr. 24, 2007, D.C. Law 16-305, § 3(j), 53 DCR 6198; Sept. 24, 2010, D.C. Law 18-223, § 1062(b)(10), 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 1032(b), 59 DCR 8025.)

Section references. — This section is referenced in § 1-623.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "If an individual" for "If an employee, whose date of hire was before January 1, 1980" in (b).

Emergency legislation.

For temporary (90 day) amendment of section, see § 1032(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1032(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 1-623.02.

§ 1-623.23. Physical examinations.

Section references. — This section is referenced in § 1-623.03.

Editor's notes.

Section 1122(b) of D.C. Law 19-168 added a sentence in (a-2)(4) to read as follows: "In all medical opinions used under this section, the diagnosis or medical opinion of the employee's treating physician shall be accorded great weight over other opinions, absent compelling reasons to the contrary."

Applicability of D.C. Law 19-68. Section 1123 of D.C. Law 19-168 provided that subtitle L of the act (§§ 1121 to 1123) shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) through (29) of the Revised Revenue Estimate Contingency Priority List Act of 2012, passed on 2nd reading on June 5, 2012 (Enrolled version of Bill 19-743).

§ 1-623.24. Time for making claim; finding of facts; award; right to hearing; conduct of hearing.

Section references. — This section is referenced in § 1-623.06a, § 1-623.20, § 1-623.27, § 1-623.28, § 1-623.35, § 1-623.42, and § 1-623.44.

CASE NOTES

Construction.

The court declined to treat the 30-day time limit of D.C. Code § 1-623.24(b)(1) as unenforceable: there was no merit to the claimant's argument that she could seek review by filing an untimely request for reconsideration and then timely seeking review of the denial of the untimely request. Marsden v. District of Columbia Dep't of Empl. Servs., 58 A.3d 472, 2013 D.C. App. LEXIS 1 (2013).

Subchapter XXIV. Reductions-in-Force.

§ 1-624.04. Appeals.

CASE NOTES

ANALYSIS

Exhaustion of remedies.
Proper forum.

Exhaustion of remedies.

Court did not find that plaintiffs' case was an exceptional circumstance that justified obviating the requirement of exhausting administrative remedies; the court did not find that the possibility of delay alone indicated futility that warranted streamlining the process, and if the Office of Employee Appeals could not fashion a proper remedy, it would notify the court. AFGE, Local 2741 v. D.C., — WLR —, 2011 D.C. Super. LEXIS 16 (June 23, 2011).

Proper forum.

Court agreed that the proper forum for plaintiffs to challenge the reduction in force was the Office of Employee Appeals, for purposes of D.C. Code § 1-624.04, and not the court; the court found that the heart of plaintiffs' complaint was this reduction in force complaint, and thus plaintiffs had to go through the proper administrative channels without the court's intervention, and those plaintiffs who already initiated the administrative process could not simultaneously seek relief through the court, and those who had not filed claims had effectively abandoned such by failing to exhaust their administrative remedies. AFGE, Local 2741 v. D.C., — WLR —, 2011 D.C. Super. LEXIS 16 (June 23, 2011).

Court lacked jurisdiction to hear plaintiffs' case, and thus the court would not address plaintiffs' counts, as any such allegations would be addressed via the Office of Employee Appeals (OEA) process, as the OEA was the proper forum. AFGE, Local 2741 v. D.C., — WLR —, 2011 D.C. Super. LEXIS 16 (June 23, 2011).

§ 1-624.08. Abolishment of positions for fiscal year 2000 and subsequent fiscal years.

Section references. — This section is referenced in § 7-1402.

CASE NOTES

Due process.

In an action in which former employees alleged that the statutory scheme prescribed by the Comprehensive Merit Protection Act, D.C. Code § 1-601.01 et seq., denied the employees an opportunity to be heard after their terminations, the District of Columbia did not violate the employees' Fifth Amendment procedural due process rights because the employees did not establish that the process available to them was inadequate or that they were denied such process. Badgett v. Dist. of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 25044 (D.D.C. Feb. 25, 2013).

Subchapter XXIV-A. Transition Benefits for Displaced Employees.

§ 1-624.22. Transition benefits for displaced employees in Fiscal Year 1996.

(a) This section shall apply only to employees displaced as a result of a reduction-in-force in Fiscal Year 1996.

(b) Any employee who is displaced as a result of the reduction-in-force procedure in Fiscal Year 1996 may be eligible for, to the extent there are Fiscal Year 1996 appropriations, the following:

(1) Continuation of health insurance benefits and premium contribution

at the same rate as the employee had been subsidized by the District while an active employee for 2 months after separation or upon the commencement of new employment, whichever occurs first;

(2) Child care vouchers in the amount of $75 per week payable to a licensed day care provider for each week the displaced employee is certified to be unemployed for the 6-month period following separation or through the end of the first week when the displaced employee is no longer unemployed, whichever occurs first; and

(3) Tuition assistance to attend any vocational training or GED program not to exceed one-half the yearly cost for any full-time District resident student at UDC.

(c) The benefits contained in subsection (b) of this section are subject to the following limitations:

(1) The displaced employee must be a bona fide District resident at the time of separation and must have filed a District of Columbia income tax return in the 2 years prior to separation;

(2) The continued coverage under subsection (b)(1) and (2) of this section for District employees enrolled in the Federal Employee Health Benefits Plan and Federal Employees Group Life Insurance Plan are subject to the federal regulations governing these benefits;

(3) The employee must not have been the recipient of the early out or easy out retirement incentive or voluntary severance incentive programs in Fiscal Year 1996;

(4) The limit of the Fiscal Year 1996 appropriations for this program;

(5) The employee cannot have been offered a position with a contractor for government services under § 2-352.05, and refused such offer of employment;

(6) Nothing in subsection (b) of this section shall be construed as an entitlement to any benefits; and

(7) No benefits set forth in subsection (b) of this section shall be available in any future Fiscal Year without additional appropriations for those benefits.

(Mar. 3, 1979, D.C. Law 2-139, § 2422, as added Mar. 5, 1996, D.C. Law 11-98, § 601, 43 DCR 5; Sept. 26, 2012, D.C. Law 19-171, § 204, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "§ 2-352.05" for "§ 2-301.05b(a)" in (c)(5).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter XXV. Political Rights of Employees.

§ 1-625.01. Hatch Act retention.

Section references. — This section is referenced in § 1-636.02.

Temporary legislation. — For temporary (225 days) amendment of D.C. Law 18-335, § 8, see § 2(h) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary

(90 days) amendment of D.C. Law 18-335, § 8, see § 2(h) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

Editor's notes. — Section 8(a) of D.C. Law 18-335, codified as § 1-1171.01(a), provided that Law 18-18-335 shall apply upon enactment by the Congress of an act excluding the District of Columbia from coverage of 5 U.S.C. §§ 7321 through 7326 (Hatch Act).

Section 8(b) of D.C. Law 18-335 codified as § 1-1171.01(b), provided that this act shall apply upon inclusion of its fiscal effect in an approved budget and financial plan.

Congress enacted and the President signed Public Law 112-230 on December 28, 2012, excluding the District of Columbia from the coverage of 5 U.S.C. §§ 7321 through 7326 (Hatch Act).

Subchapter XXVI. Retirement.

§ 1-626.10. Vesting.

(a) The employee's contribution to the deferred compensation plan under § 1-626.05(2) and the earnings on those contributions shall vest immediately.

(b) The District's contributions to the defined contribution plan under § 1-626.05(3) and the earnings on the District's contributions for each employee shall vest when the employee dies or becomes entitled to disability benefits under the Social Security Act, or in accordance with the following vesting schedule:

Years of Credible Service	Vested Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5 or more	100%.

(c) The employee's interest in the benefits in the defined contribution plan that has not vested in accordance with subsection (b) of this section shall be forfeited after separation from employment. An employee in a defined contribution plan under § 1-626.05(3) who is removed or suspended without pay and later reinstated or restored to duty on the grounds that the removal or suspension was unwarranted or unjustified shall be entitled to resume immediately participation in the defined contribution plan, with appropriate increases made in the Section 401(a) Trust to reflect the District contributions that would have been made had the employee not been removed or suspended. An employee who is otherwise separated from employment and is later reinstated to employment with the District within 1 year of separation shall be entitled to immediately resume participation in the defined contribution plan.

(d)(1) Notwithstanding subsections (b) and (c) of this section, the District's contributions to the defined contribution plan under § 1-626.05(3) for Devon Brown, Director of the Department of Corrections ("Director Brown"), and the earnings on the District's contributions shall vest when Director Brown completes 5 years of creditable service with the District, dies, or becomes entitled to disability benefits under the Social Security Act.

(2) Director Brown's interest in the benefits in the defined contribution

plan shall not be forfeited upon separation from employment if separation occurs prior to the completion of 5 years of creditable service as calculated pursuant to this subsection.

(3) For the purposes of this subsection, creditable service shall be calculated as either consecutive service or a combination of different periods of service as a District government employee.

(Mar. 3, 1979, D.C. Law 2-139, § 2610, as added Oct. 1, 1987, D.C. Law 7-27, § 2(g), 34 DCR 5079; Nov. 19, 2008, D.C. Law 17-260, § 2, 55 DCR 10883; Dec. 8, 2009, D.C. Law 18-82, § 2, 56 DCR 8140; Sept. 26, 2012, D.C. Law 19-171, § 10, 59 DCR 6190.)

Section references. — This section is referenced in § 1-527.01, § 1-626.04, and § 2-1605.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a correction to the directory language in D.C. Law 18-82, § 2(a), which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter XXIX. Employee Debt Set-Offs.

§ 1-629.04. Collection of debts.

Section references. — This section is referenced in § 1-629.05.

Emergency legislation. — For temporary (90 day) addition of section, see § 1055 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1055 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 1-629.05. Authority to collect infraction fines from responsible District employees.

(a) If a notice of infraction is issued pursuant to § 50-2303.03 or § 50-2209.02 for an infraction committed by a vehicle owned or leased by the District of Columbia government, the responsible individual shall be required to pay any fine or fee imposed as a result of that notice of infraction.

(b) The responsible individual may challenge any notice of infraction issued for a moving violation as provided in subchapter II of Chapter 23 of Title 50 (§ 50-2302.01 et seq.), or any notice of infraction issued for a parking, standing, or stopping infraction as provided in subchapter III of Chapter 23 of Title 50 (§ 50-2303.01 et seq.).

(c) If a responsible individual fails to pay a fine or fee imposed, the period for challenging the issuance of the notice of infraction has expired, and there is no final order dismissing the charges that led to the issuance of the notice of infraction, the Mayor may collect the amount owed, as provided for in § 1-629.04, or by any other means authorized by law.

(d) For the purposes of this section, the term "responsible individual" means

the District government employee, contractor, or volunteer who had registered, or signed, to use the vehicle that was the subject of the notice of infraction, or who had been assigned to drive the vehicle that was the subject of the notice of infraction, at the time when the notice of infraction was issued.

(Mar. 3, 1979, D.C. Law 2-139, § 2906, as added Sept. 20, 2012, D.C. Law 19-168, § 1055, 59 DCR 8025.)

Emergency legislation. — For temporary addition of section, see § 1055 of the Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes. — The 2012 amendment by D.C. Law 19-168 added this section.

Subchapter XXXII. Implementation; Conforming Amendments and Repealers; Specific Retention of Laws and Authorities; Rules of Construction.

§ 1-632.03. Police officers and fire fighters appointed after the date this chapter becomes effective.

Section references. — This section is referenced in § 1-608.01 and § 1-636.02.

CASE NOTES

Construction.

Because a 2004 amendment to the Police and Firefighters' Retirement and Disability Act, D.C. Code § 5-701 et seq., did not displace preexisting law providing claimants with the benefit of favorable burden-shifting principles, the Metropolitan Police Department committed legal error in failing to apply those principles to a police officer's claim. Newell-Brinkley v. Walton, 84 A.3d 53, 2014 D.C. App. LEXIS 4 (2014).

Subchapter XXXVI. Effective Date Provisions; Implementation Task Force.

§ 1-636.03. Implementation Task Force.

CASE NOTES

Applied in Wash. Teachers' Union v. D.C. Pub. Schs., 77 A.3d 441, 2013 D.C. App. LEXIS 665 (2013).